

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2005-1265-MWD-E **TCEQ ID:** RN101609741 **CASE NO.:** 26202
RESPONDENT NAME: City of Crockett

| | | |
|---|---|---|
| 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"/> IMMEDIATE 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: North Plant, located near the west bank of Town Branch, approximately 2,000 feet north of the intersection of the Missouri-Pacific Railroad with State Loop 304, Houston County</p> <p>TYPE OF OPERATION: Municipal wastewater system</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on April 22, 2005, concerning a raw sewage discharge which was impacting Town Branch Creek and resulted in a fish kill. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on November 26, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Sharon Blue, Litigation Division, MC 175, (512) 239-2223 TCEQ Enforcement Coordinator: Mr. Craig Fleming, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5806; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable Wayne Mask, Mayor, City of Crockett, 200 North Fifth, Crockett, Texas 75835 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: <input checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: April 22, 2005</p> <p>Date of Investigation Relating to this Case: April 25, 2005</p> <p>Date of NOV/NOE Relating to this Case: July 13, 2005 (NOE)</p> <p>Background Facts: This was a complaint which resulted in an Emergency Response investigation. Two violations were documented.</p> <p>WATER</p> <p>1) Failed to prevent the unauthorized discharge of municipal sewage waste into waters of the state except as authorized by a rule, permit, or order issued by the Commission [Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10154001, Permit Condition No. 2.g., TEX. WATER CODE § 26.121(a) and 30 TEX. ADMIN. CODE § 305.125(1) and (4)].</p> <p>2) Failed to provide notification to the TCEQ as required when unauthorized discharge occurs [TPDES Permit No. 10154001, Monitoring and Reporting Requirements No. 7, and 30 TEX. ADMIN. CODE § 305.125(1) and (9)].</p> | <p>Total Assessed: \$7,865</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$7,865</p> <p>Total Paid (Due) to General Revenue: \$0</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 2002</p> <p>Findings Order Justification: Environmental receptors have been exposed to pollutants which exceed levels that are protective.</p> | <p>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that the City has implemented the following corrective measures at the Facility:</p> <p>a. On April 22, 2005, City staff inspected the unauthorized discharge location (at and below the "saddle connection" where the two lines connected and had leaked) and unplugged the sewer lines;</p> <p>b. By April 25, 2005, had encased/repared the saddle connection and initiated long-term upgrades to prevent recurrence of the leak at the saddle connection;</p> <p>c. By April 26, 2005, had submitted a copy of the written noncompliance notification report to the TCEQ; and</p> <p>d. By May 2, 2005, had finished reinforcing/upgrading the sewer line (creek crossing) and had completed training all pertinent City staff regarding proper use of the August 16, 2001 standard operating procedure for unauthorized discharges.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> |

Additional ID(s): WQ0010154001

Attachment A
Docket Number: 2005-1265-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

| | |
|---------------------------|---|
| Respondent: | City of Crockett |
| Penalty Amount: | Seven Thousand Eight Hundred Sixty Five Dollars (\$7,865) |
| SEP Offset Amount: | Seven Thousand Eight Hundred Sixty Five Dollars (\$7,865) |
| Type of SEP: | Custom (with pre-approved concept) |
| Location of SEP: | Houston 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 perform an erosion control project on approximately 1500 feet of Town Branch Creek between Bell Avenue and a point 100 feet north of Dallas Street in the City of Crockett. The Respondent shall remove and properly dispose of dead trees and debris, including cement blocks that have fallen into the creek from an old abandoned cotton gin. Additionally, the Respondent shall securely plant native grasses along the stream bank and encourage vegetation to prevent bank erosion.

The Respondent shall perform this project in accordance with all federal, state and local environmental laws and regulations. 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. To the extent it can be documented, the Respondent will receive credit for the overtime hours its employees and equipment are used in implementing the SEP. The Respondent will not receive credit for gratuities and/or inducements for volunteers.

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 reducing both erosion and downstream flooding. Obstructions in a creek, such as dead trees or large trash, can do two things to increase erosion: 1) divert water flows, initiating erosion downstream; and 2) create turbulence, which may cause erosion at 'nick points' in the creek bank. The native grasses along the stream banks will assist in holding the soil in place without significantly impeding the flow of the water. Continued erosion leads to high sediment loads in waterways, silting, and disruption of ecosystems. Removing obstructions from the creek will

also allow more water to stay contained within the creek banks and reduce flooding. Flooding can cause additional erosion as well as the movement of contaminants to downstream locations.

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.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin implementation of the project. The Respondent shall complete the project within 180 days after the effective date of this Agreed Order and provide a final report in accordance with Item 3.B., below.

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 30 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. Map showing specific location of area addressed;
5. Photographs of the project showing the project area before commencement of the removal of debris and after the project is complete);
6. Documentation of proposal disposal of debris (such as landfill receipts); 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, with the payment, the Respondent shall include the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The payment for any amount due if the SEP is not completed shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Send check 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 submit a copy of the payment to:

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

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

Penalty Calculation Worksheet (PCW)
 Policy Revision 2 (September 2002) PCW Revision December 10, 2004

TCEQ

| | | | | | | | | |
|--------------|---------------------|----------------------------|------------------|-------------|---------------------|-------------|----------------|--|
| DATES | Assigned PCW | 18-Jul-2005 11-Aug-2005 | Screening | 20-Jul-2005 | Priority Due | 16-Sep-2005 | EPA Due | |
|--------------|---------------------|----------------------------|------------------|-------------|---------------------|-------------|----------------|--|

RESPONDENT/FACILITY INFORMATION

| | | | |
|-----------------------------|---------------------------|---------------------------|--------------|
| Respondent | City of Crockett | | |
| Reg. Ent. Ref. No. | RN101609741 | | |
| Additional ID No(s) | TPDES Permit No. 10154001 | | |
| Facility/Site Region | 10-Beaumont | Major/Minor Source | Minor Source |

CASE INFORMATION

| | | | | |
|--------------------------|----------------------|--------------------------|--------------------|----------|
| Enf./Case ID No. | 26202 | No. of Violations | 2 | |
| Docket No. | 2005-1265-MWD-E | Order Type | Findings | |
| Case Priority | 3 | Enf. Coordinator | Brian Lehmkuhle | |
| Media Program(s) | Water Quality | EC's Team | Enforcement Team 2 | |
| Multi-Media | | | | |
| Admin. Penalty \$ | Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$5,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 43% Enhancement **Subtotals 2, 3, & 7** \$2,365

Notes
 The respondent was provided with a Notice of Violation ("NOV") letter dated May 8, 2002 for same or similar violations. The respondent also self-reported effluent violations in 15 months, and been provided with four other NOV's, for dissimilar violations.

Culpability Yes 25% Enhancement **Subtotal 4** \$1,375

Notes
 The respondent had a written protocol dated August 16, 2001 that reflected the noncompliance notification rule requirement.

Good Faith Effort to Comply 25% Reduction **Subtotal 5** -\$1,375

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

Notes
 The respondent completed corrective action by May 2, 2005.

Economic Benefit 0% Enhancement* **Subtotal 6** \$0

| | | |
|----------------------------|---------|-----------------------------------|
| Total EB Amounts | \$10 | *Capped at the Total EB \$ Amount |
| Approx. Cost of Compliance | \$5,100 | |

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$7,865

OTHER FACTORS AS JUSTICE MAY REQUIRE 0% **Adjustment** \$0

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

Notes

Final Penalty Amount \$7,865

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$7,865

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 where a findings order is recommended.

PAYABLE PENALTY \$7,865

Screening Date 20-Jul-2005 **Docket No.** 2005-1265-MWD-E **PCW**
Respondent City of Crockett *Policy Revision 2 (September 2002)*
Case ID No. 26202 *PCW Revision December 10, 2004*
Reg. Ent. Reference No. RN101609741
Additional ID No(s). TPDES Permit No. 10154001
Media [Statute] Water Quality
Enf. Coordinator Brian Lehmkuhle

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>) | 1 | 5% |
| | Other written NOVs | 19 | 38% |
| Orders | Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (<i>number of counts</i>) | 0 | 0% |
| Emissions | Chronic excessive emissions events (<i>number of events</i>) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were</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 | <i>Please Enter Yes or No</i> | | |
| | 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) 43%

>> **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 was provided with a Notice of Violation ("NOV") letter dated May 8, 2002 for same or similar violations. The respondent also self-reported effluent violations in 15 months, and been provided with four other NOVs, for dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 43%

Screening Date 20-Jul-2005 **Docket No.** 2005-1265-MWD-E **PCW**
Respondent City of Crockett *Policy Revision 2 (September 2002)*
Case ID No. 26202 *PCW Revision December 10, 2004*
Reg. Ent. Reference No. RN101609741
Additional ID No(s) TPDES Permit No. 10154001
Media [Statute] Water Quality
Enf. Coordinator Brian Lehmkuhle
Violation Number 1

Primary Rule Cite(s) TPDES Permit No. 10154001, Permit Condition No. 2.g., Tex. Water Code § 26.121(a)
Secondary Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (4)

Violation Description
 Allowed an unauthorized discharge, from a location where a service connection attached to a City sewage collection line (the "saddle connection"), that was not adequately mitigated and resulted in a fish kill. Specifically, on April 22, 2005, the TCEQ contractor notified the City about a complaint report that an unknown amount of raw sewage had been released into Town Branch Creek near 411 Cordell Street in Crockett. The City's response actions did not result in the sealing of the saddle connection or containment/mitigation of discharged sewage prior to the April 25, 2005 investigation date.

Base Penalty \$10,000

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

| | | Harm | | | |
|---------|-----------|-------|----------|-------|-------------|
| Release | | Major | Moderate | Minor | |
| OR | Actual | X | | | Percent 50% |
| | Potential | | | | |

>> **Programmatic Matrix**

| Falsification | Major | Moderate | Minor | Percent |
|---------------|-------|----------|-------|---------|
| | | | | |

Matrix Notes
 Pollutants discharged at the time of the violations were significant and did exceed levels that are protective of human health and the environment, with documented impacts including a fish kill.

Adjustment -\$5,000

Base Penalty Subtotal \$5,000

Violation Events

Number of Violation Events 1

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

Violation Base Penalty \$5,000

One monthly event is recommended, based on the discharge that occurred from April 22, 2005 through April 25, 2005, as documented during the April 25, 2005 investigation.

Economic Benefit (EB) for this violation

Estimated EB Amount \$7

Statutory Limit Test

Violation Final Penalty Total \$7,150

This violation Final Assessed Penalty (adjusted for limits) \$7,150

Economic Benefit Worksheet

Respondent City of Crockett
 Case ID No. 26202
 Reg. Ent. Reference No. RN101609741
 Additional ID No(s). TPDES Permit No. 10154001
 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) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.0 | \$0 | \$0 | \$0 |
| Land | | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | \$5,000 | 22-Apr-2005 | 02-May-2005 | 0.0 | \$7 | n/a | \$7 |

Notes for DELAYED costs: Estimated cost for additional, optimized response activities which might have mitigated the unauthorized discharge, from the first day of the unauthorized discharge through the date that the City had completed all upgrades at to ensure the long-term stability of this sewer line creek crossing.

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$5,000

TOTAL \$7

Screening Date 20-Jul-2005

Docket No. 2005-1265-MWD-E

PCW

Respondent City of Crockett

Policy Revision 2 (September 2002)

Case ID No. 26202

PCW Revision December 10, 2004

Reg. Ent. Reference No. RN101609741

Additional ID No(s). TPDES Permit No. 10154001

Media [Statute] Water Quality

Enf. Coordinator Brian Lehmkuhle

Violation Number

Primary Rule Cite(s) TPDES Permit No. 10154001, Monitoring & Reporting Requirements No. 7

Secondary Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (9)

Violation Description Failed to verbally notify the TCEQ within 24 hours of an unauthorized discharge as required. The City was aware of the unauthorized discharge by April 22, 2005; however, the City did not report the events to the TCEQ regional office until the regional staff initiated their investigation on April 25, 2005.

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 type="text"/> | <input checked="" type="checkbox"/> | <input type="text"/> | Percent <input type="text" value="5%"/> |

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 type="text"/> |
| | single event | <input checked="" type="checkbox"/> |

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 Crockett
 Case ID No. 26202
 Reg. Ent. Reference No. RN101609741
 Additional ID No(s). TPDES Permit No. 10154001
 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 | | | | | | | |

| 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 | \$100 | 22-Apr-2005 | 02-May-2005 | 0.0 | \$0 | \$3 | \$3 |
| 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 Estimated cost for additional response/oversight is accomplished to optimize procedures and ensure that noncompliance reporting is done compliantly, from the date that the City became aware of the unauthorized discharge through the date by which the City had trained all pertinent staff regarding the City's August 16, 2001 standard operating procedure. | | | | | | | |

Approx. Cost of Compliance

TOTAL

Compliance History

| | | | |
|---|--|-------------------------|---|
| Customer/Respondent/Owner-Operator: | CN600251870 City of Crockett | Classification: AVERAGE | Rating: 2.230 |
| Regulated Entity: ID Number(s): | RN101609741 NORTH PLANT | Classification: AVERAGE | Site Rating: 1.16 |
| | WASTEWATER | PERMIT | TX0070831 |
| | WASTEWATER | PERMIT | TPDES0070831 |
| | WASTEWATER | PERMIT | WQ0010154001 |
| | WASTEWATER LICENSING | LICENSE | WQ0010154001 |
| Location: | West Bank of Town Branch; approximately 2,000 feet north of the intersection of the Missouri-Pacific Railroad with State Loop 304 in Houston County, Texas | | Rating Date: 9/1/04 Repeat Violator: NO |
| TCEQ Region: | REGION 10 - BEAUMONT | | |
| Date Compliance History Prepared: | August 15, 2005 | | |
| Agency Decision Requiring Compliance History: | Enforcement | | |
| Compliance Period: | August 15, 2000 to August 15, 2005 | | |
| TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History | | | |
| Name: | Brian Lehmkuhle | Phone: | (512) 239-4482 |

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | No |
| 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 |

6. Comments:

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.)

| | |
|------------|----------|
| 12/27/2002 | (197031) |
| 01/11/2002 | (197030) |
| 01/03/2001 | (197029) |
| 11/18/2002 | (197027) |
| 12/01/2000 | (113816) |
| 12/03/2001 | (197026) |
| 11/29/2000 | (197025) |
| 10/23/2002 | (197023) |
| 11/01/2001 | (197022) |
| 10/20/2000 | (197021) |
| 09/26/2002 | (197020) |
| 08/19/2002 | (3695) |
| 09/26/2001 | (197019) |
| 09/25/2000 | (197018) |
| 08/21/2002 | (197017) |
| 08/22/2001 | (197016) |

08/27/2000 (197015)
 06/09/2003 (197014)
 07/25/2002 (197013)
 07/30/2001 (197012)
 06/30/2003 (197010)
 06/24/2002 (197009)
 06/22/2001 (197008)
 05/30/2003 (197006)
 05/30/2002 (197005)
 05/24/2001 (197004)
 04/24/2003 (197002)
 05/02/2002 (197001)
 04/30/2001 (197000)
 02/22/2005 (385542)
 12/20/2004 (385543)
 12/20/2004 (385544)
 03/27/2003 (196997)
 03/25/2002 (196996)
 07/30/2004 (358767)
 03/28/2001 (196995)
 11/20/2002 (17180)
 08/25/2004 (358768)
 03/04/2003 (196994)
 09/16/2004 (358769)
 02/25/2002 (196993)
 02/23/2001 (196992)
 10/25/2004 (358770)
 02/13/2001 (247262)
 11/22/2004 (358771)
 11/10/2003 (248927)
 11/19/2002 (13240)
 03/04/2004 (311881)
 03/29/2004 (311883)
 04/22/2004 (311884)
 05/24/2004 (311886)
 06/28/2004 (311888)
 09/25/2003 (311891)
 09/22/2003 (311893)
 10/20/2003 (311895)
 11/17/2003 (311896)
 12/22/2003 (311897)
 12/22/2003 (311898)
 03/15/2004 (264835)
 07/03/2001 (143426)
 01/27/2003 (197035)
 07/13/2005 (398989)
 01/28/2002 (197034)
 02/02/2001 (197033)

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

Date: 11/30/2002 (197031)
 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: 08/23/2002 (3695)
 Self Report? NO Classification: Minor
 Rqmt Prov: OP IA
 Description: Failure by the City of Crockett to ensure that test procedures for the analysis of pollutants shall comply with procedures specified in 30 TAC 319.11 - 319.12.

Self Report? NO Classification: Minor
 Rqmt Prov: OP IA
 Description: Failure by the City of Crockett to comply with test procedures specified in 30 TAC 319.11 - 319.12 for the analysis of pollutants.

Self Report? NO Classification: Moderate
 Rqmt Prov: OP IA
 Description: Failure by the City of Crockett to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor
 Rqmt Prov: OP IA
 Description: Failure by the City of Crockett to include monitoring results, in the DMR, of pH and dissolved oxygen that is analyzed more frequently than required by the permit.

Self Report? NO Classification: Moderate

Rqmt Prov: OP IA
 Description: Failure by the City of Crockett North treatment plant to ensure that all automatic flow measuring devices are accurately calibrated.

Date: 10/31/2002 (197027)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2001 (197026)
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2000 (197025)
 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: 07/03/2001 (143426)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to submit pollution prevention certification.

Date: 11/10/2003 (248927)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.2[G]
 Rqmt Prov: PERMIT IA
 Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)
 30 TAC Chapter 305, SubChapter F 305.125(11)(C)[G]
 Rqmt Prov: PERMIT IA
 Description: Failure to submit an Annual Sludge Report to the TCEQ by September 1 of each year.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.4(g)(4)(B)[G]
 Rqmt Prov: PERMIT IA
 Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.4(d)[G]
 Rqmt Prov: PERMIT IA
 Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: PERMIT IA
 Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Date: 06/30/2001 (197012)
 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 (196997)
 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 (196996)
 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: 12/31/2004 (385544)
 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: 02/13/2001 (247262)
 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: 01/31/2002 (196993)

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: 08/31/2004 (358769)

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 10/31/2004 (358771)

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: 04/30/2004 (311886)

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: 08/31/2003 (311893)

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: 11/30/2003 (311897)

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: 12/31/2000 (197033)

Self Report? NO Classification: Moderate
 Citation: Permit 10154, Monitoring and Reporting Requirements No, 7
 Description: Failure to notify TNRCC of an unauthorized discharge within the required notification period
 Date: 05/08/2002

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 CROCKETT
RN101609741

§
§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2005-1265-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Crockett ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City presented this agreement to the Commission.

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

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the City.

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

I. FINDINGS OF FACT

1. The City owns and operates a municipal wastewater system located near the west bank of Town Branch, approximately 2,000 feet north of the intersection of the Missouri-Pacific Railroad with State Loop 304 in Houston County, Texas (the "Facility").
2. The City has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. During or pursuant to an investigation on April 25, 2005, TCEQ staff documented that the City:

- a. Allowed an unauthorized discharge, from a location where a service connection attached to a City sewage collection line (the "saddle connection"), that was not adequately mitigated and resulted in a fish kill. Specifically, on April 22, 2005, the TCEQ contractor notified the City about a complaint report that an unknown amount of raw sewage had been released into Town Branch Creek near 411 Cordell Street in Crockett. The City's response actions did not result in the sealing of the saddle connection or containment/mitigation of discharged sewage prior to the April 25, 2005 investigation date; and
 - b. Provided verbal notification to the TCEQ regional office later than 24 hours after becoming aware of an unauthorized discharge as required. The City was aware of the unauthorized discharge by April 22, 2005; however, the City did not report the events to the TCEQ regional office until the regional staff initiated their investigation on April 25, 2005.
4. The City received notice of the violations on or about July 18, 2005.
5. The Executive Director recognizes that the City has implemented the following corrective measures at the Facility:
- a. On April 22, 2005, City staff inspected the unauthorized discharge location (at and below the "saddle connection" where the two lines connected and had leaked) and unplugged the sewer lines;
 - b. By April 25, 2005, had encased/repared the saddle connection and initiated long-term upgrades to prevent recurrence of the leak at the saddle connection;
 - c. By April 26, 2005, had submitted a copy of the written noncompliance notification report to the TCEQ; and
 - d. By May 2, 2005, had finished reinforcing/upgrading the sewer line (creek crossing) and had completed training all pertinent City staff regarding proper use of the August 16, 2001 standard operating procedure for unauthorized discharges.

II. CONCLUSIONS OF LAW

1. The City is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. § 7.002 and 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3.a., the City failed to prevent the unauthorized discharge of municipal sewage waste into waters of the state except as authorized by a rule, permit, or order issued by the Commission, in violation of TPDES Permit No. 10154001, Permit Condition No. 2.g., TEX. WATER CODE § 26.121(a) and 30 TEX. ADMIN. CODE § 305.125(1) and (4).

3. As evidenced by Finding of Fact No. 3.b., the City failed to provide notification to the TCEQ as required when unauthorized discharge occurs, in violation of TPDES Permit No. 10154001, Monitoring and Reporting Requirements No. 7, and 30 TEX. ADMIN. CODE § 305.125(1) and (9).
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 Seven Thousand Eight Hundred Sixty-Five Dollars (\$7,865) 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. Specifically, Seven Thousand Eight Hundred Sixty-Five Dollars (\$7,865) shall be conditionally offset by the City's completion of a Supplemental Environmental Project.

III. ORDERING PROVISIONS

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

1. The City is assessed an administrative penalty in the amount of Seven Thousand Eight Hundred Sixty-Five Dollars (\$7,865), as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The imposition of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Crockett, Docket No. 2005-1265-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The City shall implement and complete a Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 5 above, Seven Thousand Eight Hundred Sixty-Five Dollars (\$7,865) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. 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.
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. 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.
7. 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.
8. 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.
9. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

1/29/2008

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of City of Crockett. I am authorized to agree to the attached Agreed Order on behalf of City of Crockett, 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 Crockett 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

09/24/07

Date

Wayne Mask

Name (printed or typed)
Authorized Representative
City of Crockett

Mayor, City of Crockett

Title

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

Attachment A
Docket Number: 2005-1265-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

| | |
|---------------------------|---|
| Respondent: | City of Crockett |
| Penalty Amount: | Seven Thousand Eight Hundred Sixty Five Dollars (\$7,865) |
| SEP Offset Amount: | Seven Thousand Eight Hundred Sixty Five Dollars (\$7,865) |
| Type of SEP: | Custom (with pre-approved concept) |
| Location of SEP: | Houston 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 perform an erosion control project on approximately 1500 feet of Town Branch Creek between Bell Avenue and a point 100 feet north of Dallas Street in the City of Crockett. The Respondent shall remove and properly dispose of dead trees and debris, including cement blocks that have fallen into the creek from an old abandoned cotton gin. Additionally, the Respondent shall securely plant native grasses along the stream bank and encourage vegetation to prevent bank erosion.

The Respondent shall perform this project in accordance with all federal, state and local environmental laws and regulations. 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. To the extent it can be documented, the Respondent will receive credit for the overtime hours its employees and equipment are used in implementing the SEP. The Respondent will not receive credit for gratuities and/or inducements for volunteers.

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 reducing both erosion and downstream flooding. Obstructions in a creek, such as dead trees or large trash, can do two things to increase erosion: 1) divert water flows, initiating erosion downstream; and 2) create turbulence, which may cause erosion at 'nick points' in the creek bank. The native grasses along the stream banks will assist in holding the soil in place without significantly impeding the flow of the water. Continued erosion leads to high sediment loads in waterways, silting, and disruption of ecosystems. Removing obstructions from the creek will

also allow more water to stay contained within the creek banks and reduce flooding. Flooding can cause additional erosion as well as the movement of contaminants to downstream locations.

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.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin implementation of the project. The Respondent shall complete the project within 180 days after the effective date of this Agreed Order and provide a final report in accordance with Item 3.B., below.

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 30 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. Map showing specific location of area addressed;
5. Photographs of the project showing the project area before commencement of the removal of debris and after the project is complete);
6. Documentation of proposal disposal of debris (such as landfill receipts); 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, with the payment, the Respondent shall include the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The payment for any amount due if the SEP is not completed shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Send check 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 submit a copy of the payment to:

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

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

