

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1439-MLM-E **TCEQ ID:** RN103003364 **CASE NO.:** 34554

RESPONDENT NAME: City of San Juan

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 checked="" type="checkbox"/> AIR	<input checked="" 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 type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Trench Burner Unit 1, 107 East Hall Acres, San Juan, Hidalgo County</p> <p>TYPE OF OPERATION: Air curtain incinerator</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: One complaint was received on May 22, 2007 for outdoor burning of brush. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on January 22, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Mr. Thomas Jecha, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-2576; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable San Juanita Sanchez, Mayor, City of San Juan, 709 South Nebraska Avenue, San Juan, Texas 78589 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: May 22, 2007</p> <p>Date of Investigation Relating to this Case: June 29, 2007</p> <p>Date of NOV/NOE Relating to this Case: August 20, 2007 (NOE)</p> <p>Background Facts: This was a complaint investigation. Four violations were documented.</p> <p>AIR/WASTE</p> <p>1) Failed to meet the conditions and requirements for authorized use of an air curtain incinerator ("ACI") including burning only trees, clean lumber, and brush. Specifically, scrap metal, wire, metal piping, painted wood, cans, glass bottles, and plastic buckets were found in the burn trenches; the trenches were not located in undisturbed soil not previously excavated; and trenches where the ACI was removed were not completely filled with incombustible material and covered with soil [30 TEX. ADMIN. CODE § 106.496(a), (d)(4), and (g)(4)(A)(ii) [formerly 30 TEX. ADMIN. CODE § 106.496(9), (17), and (2)] and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p> <p>2) Failed to properly conduct daily operations. Specifically, material was stacked above the air curtain; material not being worked was stockpiled 63 feet from the trench instead of the required distance of 75 feet; and the ACI blower did not remain on until an adequate amount of material was consumed to prevent flame or smoke that exceeds rule requirements when the blower is turned off [30 TEX. ADMIN. CODE § 106.496(c)(3)(C), (E), and (F) [formerly 30 TEX. ADMIN. CODE § 106.496(13), (6), and (9)] and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$3,600</p> <p>Total Deferred: \$720 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$2,880</p> <p>Total Paid 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>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Immediately upon the effective date of this Agreed Order, burn only trees, clean lumber, and brush in the ACI and locate all new burn trenches in undisturbed soil not previously excavated;</p> <p>b. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Develop written procedures to ensure that: stockpiles of material not being worked are kept 75 feet from the burn trench; the ACI blower remains on at the end of daily burning to ensure enough material is consumed to prevent flame and smoke that exceeds requirements; and material added to the ACI is kept below the air curtain; and</p> <p>ii. Post operating instructions at the site where they are readily available at the request of TCEQ personnel.</p> <p>c. Within 60 days after the effective date of this Agreed Order, remove and properly dispose of all unauthorized MSW from the burn site and burn trenches and completely fill the old trenches with incombustible material and cover them with soil; and</p> <p>d. Within 75 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a. through c.</p>

3) Failed to post operating instructions at the burn site and make the instructions available at the request of TCEQ personnel. Specifically, operating instructions located on the inside cover of the control box were faded and could not be read [30 TEX. ADMIN. CODE § 106.496(h)(4)(C) [formerly 30 TEX. ADMIN. CODE § 106.496(13)] and TEX. HEALTH & SAFETY CODE § 382.085(b)].

4) Failed to dispose of municipal solid waste ("MSW") at an authorized facility. Specifically, MSW including scrap metal, wire, metal piping, glass bottles, cans, a deflated soccer ball, metal aerosol cans, and plastic buckets, was disposed of in three burn trenches that each hold approximately 75 cubic yards. Also, approximately 40 to 50 filled plastic trash bags and carpeting were mixed with a pile of brushy material on the west side of the trench burner site [30 TEX. ADMIN. CODE § 330.15(c)].

Attachment A
Docket Number: 2007-1439-MLM-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of San Juan
Payable Penalty Amount: Two Thousand Eight Hundred Eighty Dollars (\$2,880)
SEP Amount: Two Thousand Eight Hundred Eighty Dollars (\$2,880)
Type of SEP: Pre-approved
Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Wastewater Treatment Assistance
Location of SEP: Hidalgo County

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

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

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 protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

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

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

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

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

DATES	Assigned	28-Aug-2007	Screening	4-Sep-2007	EPA Due	
	PCW	5-Sep-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of San Juan
Reg. Ent. Ref. No.	RN103003364
Facility/Site Region	15-Harlingen
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	34554	No. of Violations	4
Docket No.	2007-1439-MLM-E	Order Type	1660
Media Program(s)	Air	Enf. Coordinator	Thomas Jecha
Multi-Media	Municipal Solid Waste	EC's Team	Enforcement Team 3
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 EDRP/Settlement Offer

Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/> X	(mark with x)

Notes

0% Enhancement* **Subtotal 6**
 *Capped at the Total EB \$ Amount

Total EB Amounts	\$447
Approx. Cost of Compliance	\$3,760

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **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 4-Sep-2007

Docket No. 2007-1439-MLM-E

PCW

Respondent City of San Juan

Policy Revision 2 (September 2002)

Case ID No. 34554

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN103003364

Media [Statute] Air

Enf. Coordinator Thomas Jecha

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>)	2	10%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 10%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for two NOVs with same or similar violations within the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 10%

Screening Date 4-Sep-2007
Respondent City of San Juan
Case ID No. 34554

Docket No. 2007-1439-MLM-E

PCW

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN103003364

Media [Statute] Air

Enf. Coordinator Thomas Jecha

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 106.496(a), (d)(4), and (g)(4)(A)(ii) [formerly 30 Tex. Admin. Code § 106.496(9), (17), and (2)] and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to meet the conditions and requirements for authorized use of an air curtain incinerator ("ACI") including burning only trees, clean lumber, and brush. Specifically, scrap metal, wire, metal piping, painted wood, cans, glass bottles, and plastic buckets were found in the burn trenches; the trenches were not located in undisturbed soil not previously excavated; and trenches where the ACI was removed were not completely filled with incombustible material and covered with soil.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 67 Number of violation days

<i>mark only one with an x</i>	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended from the June 29, 2007 investigation until the September 4, 2007 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$313

Violation Final Penalty Total \$1,200

This violation Final Assessed Penalty (adjusted for limits) \$1,200

Economic Benefit Worksheet

Respondent City of San Juan
Case ID No. 34554
Reg. Ent. Reference No. RN103003364
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$300	29-Jun-2007	5-May-2008	0.9	\$13	n/a	\$13

Notes for DELAYED costs

Estimated cost to properly fill the burn trenches. The date required is the investigation date and the final date is the expected 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]	\$300	29-Jun-2007	29-Jun-2007	0.0	\$0	\$300	\$300
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost to sort unauthorized waste from material authorized to be burned and properly excavate the burn trenches.

Approx. Cost of Compliance

\$600

TOTAL

\$313

Screening Date 4-Sep-2007

Docket No. 2007-1439-MLM-E

PCW

Respondent City of San Juan

Policy Revision 2 (September 2002)

Case ID No. 34554

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN103003364

Media [Statute] Air

Enf. Coordinator Thomas Jecha

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 106.496(Ĉ)(3)(C), (E), and (F) [formerly 30 Tex. Admin. Code § 106.496(13), (6), and (9)] and Tex. Health & Safety Code § 382.085(b)

Violation Description

Failed to properly conduct daily operations. Specifically, material was stacked above the air curtain; material not being worked was stockpiled 63 feet from the trench instead of the required distance of 75 feet; and the ACI blower did not remain on until an adequate amount of material was consumed to prevent flame or smoke that exceeds rule requirements when the blower is turned off.

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="5%"/>
Potential	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	

>> Programmatic Matrix

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

Matrix Notes

Human health or the environment could be exposed to insignificant amounts of pollutants as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an 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

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of San Juan
Case ID No. 34554
Reg. Ent. Reference No. RN103003364
Media Air
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$150	29-Jun-2007	5-Apr-2008	0.8	\$6	n/a	\$6

Notes for DELAYED costs

Estimated cost of additional oversight needed to ensure material is not stacked above the air curtain, stockpiled material is at least 75 feet from the trench, and the blower remains on until enough material is consumed to prevent flame and smoke that exceeds rule requirements when the blower is turned off. The date required is the date of the investigation and the final date is the expected 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

\$150

TOTAL

\$6

Screening Date 4-Sep-2007	Docket No. 2007-1439-MLM-E	PCW
Respondent City of San Juan	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 34554	<i>PCW Revision June 26, 2007</i>	
Reg. Ent. Reference No. RN103003364		
Media [Statute] Air		
Enf. Coordinator Thomas Jecha		
Violation Number <input type="text" value="3"/>		
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 106.496(h)(4)(C) [formerly 30 Tex. Admin. Code § 106.496(13)] and Tex. Health & Safety Code § 382.085(b)"/>	
Violation Description	<input type="text" value="Failed to post operating instructions at the burn site and make the instructions available at the request of TCEQ personnel. Specifically, operating instructions located on the inside cover of the control box were faded and could not be read."/>	
	Base Penalty	<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual	<input type="text"/>	<input type="text"/>		<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	
				Percent <input type="text" value="0%"/>	

>> Programmatic Matrix

	Falsification				
		Major	Moderate		Minor
	<input type="text"/>	<input type="text"/>	X		<input type="text"/>
				Percent <input type="text" value="5%"/>	
Matrix Notes	<input type="text" value="30 to 70 percent of the requirement is not met."/>				

Adjustment

Violation Events

Number of Violation Events <input type="text" value="1"/>	<input type="text" value="67"/>	Number of violation days												
<i>mark only one with an x</i>	<table border="0" style="width:100%"> <tr><td>daily</td><td><input type="text"/></td></tr> <tr><td>monthly</td><td><input type="text"/></td></tr> <tr><td>quarterly</td><td style="text-align:center">X</td></tr> <tr><td>semiannual</td><td><input type="text"/></td></tr> <tr><td>annual</td><td><input type="text"/></td></tr> <tr><td>single event</td><td><input type="text"/></td></tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	X	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>	Violation Base Penalty <input type="text" value="\$500"/>
daily	<input type="text"/>													
monthly	<input type="text"/>													
quarterly	X													
semiannual	<input type="text"/>													
annual	<input type="text"/>													
single event	<input type="text"/>													

One quarterly event is recommended from the June 29, 2007 investigation until the September 4, 2007 screening date.

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$1"/>	Violation Final Penalty Total <input type="text" value="\$600"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$600"/>	

Economic Benefit Worksheet

Respondent City of San Juan
Case ID No. 34554
Reg. Ent. Reference No. RN103003364
Media Air
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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)	\$20	29-Jun-2007	5-Apr-2008	0.8	\$1	n/a	\$1

Notes for DELAYED costs Estimated cost to place operating instructions at the burn site from the investigation date until the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance \$20

TOTAL \$1

Screening Date 4-Sep-2007

Docket No. 2007-1439-MLM-E

PCW

Respondent City of San Juan

Policy Revision 2 (September 2002)

Case ID No. 34554

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN103003364

Media [Statute] Air

Enf. Coordinator Thomas Jecha

Violation Number

Rule Cite(s)

Violation Description

Failed to dispose of municipal solid waste ("MSW") at an authorized facility, as documented during an investigation conducted on June 29, 2007. Specifically, MSW including scrap metal, wire, metal piping, glass bottles, cans, a deflated soccer ball, metal aerosol cans, and plastic buckets, was disposed of in three burn trenches that each hold approximately 75 cubic yards. Also, approximately 40 to 50 filled plastic trash bags and carpeting were mixed with a pile of brushy material on the west side of the trench burner site.

Base Penalty

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

One quarterly event is recommended from the June 29, 2007 investigation date until the September 4, 2007 screening date.

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 San Juan
Case ID No. 34554
Reg. Ent. Reference No. RN103003364
Media Air
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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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)	\$2,990	29-Jun-2007	5-May-2008	0.9	\$127	n/a	\$127

Notes for DELAYED costs
 Estimated cost to dispose of approximately 230 cubic yards (three trenches with approximately 75 cubic yards per trench plus approximately five cubic yards of filled plastic trash bags) of waste at an authorized facility for \$13 per cubic yard. The date required is the investigation date and the final date is the estimated 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	\$2,990	TOTAL	\$127
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Compliance History

Customer/Respondent/Owner-Operator:	CN600247050	City of San Juan	Classification: AVERAGE	Rating: 14.09
Regulated Entity:	RN103003364	TRENCH BURNER UNIT 1	Classification: AVERAGE	Site Rating: 4.50
ID Number(s):	AIR NEW SOURCE PERMITS	PERMIT	54154L001	
	AIR NEW SOURCE PERMITS	REGISTRATION	54154L002	
Location:	107 E HALL ACRES, SAN JUAN, TX		Rating Date: September 01 06	Repeat Violator: NO
TCEQ Region:	REGION 15 - HARLINGEN			
Date Compliance History Prepared:	August 30, 2007			
Agency Decision Requiring Compliance:	Enforcement			
Compliance Period:	August 30, 2002 to August 30, 2007			

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

Name: Thomas Jecha Phone: 512 239 2576

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	10/12/2005	(434180)
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- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 04/27/2005		(373794)
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 106, SubChapter V 106.496(6)	
Description:	Failure to leave blower on until all material is consumed so that any remaining material in the trench will smoke.	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 106, SubChapter V 106.496(12)	
Description:	Failure to maintain a copy of permit by rule at the burn site and making it available upon request.	
Self Report?	NO	Classification: Moderate
Citation:	30 TAC Chapter 106, SubChapter V 106.496(14)	
Description:	Failure to have an operator remain with trench burner at all times when it is operating.	
Date: 05/29/2007		(511223)
Self Report?	NO	Classification: Minor
Citation:	30 TAC Chapter 106, SubChapter V 106.496(9)	
Description:	failure to maintain the stockpile of brush at least 75 feet from the burning trench.	
Self Report?	NO	Classification: Minor
Citation:	30 TAC Chapter 106, SubChapter V 106.496(11)	
Description:	Failure to remove the ash generated by this operation from the pit and properly	

dispose of it at a landfill.

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 SAN JUAN
RN103003364

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2007-1439-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of San Juan ("the City") under the authority of TEX. HEALTH & SAFETY CODE chs. 361 and 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates an air curtain incinerator ("ACI") at 107 East Hall Acres in San Juan, Hidalgo County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12) and involves or involved the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE § 361.
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 August 25, 2007.
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 Three Thousand Six Hundred Dollars (\$3,600) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations").

Seven Hundred Twenty Dollars (\$720) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty. Two Thousand Eight Hundred Eighty Dollars (\$2,880) shall be conditionally offset by the City's completion of a Supplemental Environmental Project.

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 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.
10. 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.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, the City is alleged to have:

1. Failed to meet the conditions and requirements for authorized use of an ACI including burning only trees, clean lumber, and brush, in violation of 30 TEX. ADMIN. CODE § 106.496(a), (d)(4), and (g)(4)(A)(ii) [formerly 30 TEX. ADMIN. CODE § 106.496(9), (17), and (2)] and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on June 29, 2007. Specifically, scrap metal, wire, metal piping, painted wood, cans, glass bottles, and plastic buckets were found in the burn trenches; the trenches were not located in undisturbed soil not previously excavated; and trenches where the ACI was removed were not completely filled with incombustible material and covered with soil.
2. Failed to properly conduct daily operations, in violation of 30 TEX. ADMIN. CODE § 106.496(c)(3)(C), (E), and (F) [formerly 30 TEX. ADMIN. CODE § 106.496(13), (6), and (9)] and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on June 29, 2007. Specifically, material was stacked above the air curtain; material not being worked was stockpiled 63 feet from the trench instead of the required distance of 75 feet; and the ACI blower did not remain on until an adequate amount of material was consumed to prevent flame or smoke that exceeds rule requirements when the blower is turned off.

3. Failed to post operating instructions at the burn site and make the instructions available at the request of TCEQ personnel, in violation of 30 TEX. ADMIN. CODE § 106.496(h)(4)(C) [formerly 30 TEX. ADMIN. CODE § 106.496(13)] and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on June 29, 2007. Specifically, operating instructions located on the inside cover of the control box were faded and could not be read.
4. Failed to dispose of municipal solid waste ("MSW") at an authorized facility, in violation of 30 TEX. ADMIN. CODE § 330.15(c), as documented during an investigation conducted on June 29, 2007. Specifically, MSW including scrap metal, wire, metal piping, glass bottles, cans, a deflated soccer ball, metal aerosol cans, and plastic buckets, was disposed of in three burn trenches that each hold approximately 75 cubic yards. Also, approximately 40 to 50 filled plastic trash bags and carpeting were mixed with a pile of brushy material on the west side of the trench burner site.

III. DENIALS

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

IV. ORDERING PROVISIONS

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 requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of San Juan, Docket No. 2007-1439-MLM-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 I, Paragraph 6 above, Two Thousand Eight Hundred Eighty Dollars (\$2,880) 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. It is further ordered that the City shall undertake the following technical requirements:
 - a. Immediately upon the effective date of this Agreed Order, burn only trees, clean lumber, and brush in the ACI and locate all new burn trenches in undisturbed soil not previously excavated;

- b. Within 30 days after the effective date of this Agreed Order:
- i. Develop written procedures to ensure that: stockpiles of material not being worked are kept 75 feet from the burn trench; the ACI blower remains on at the end of daily burning to ensure enough material is consumed to prevent flame and smoke that exceeds requirements; and material added to the ACI is kept below the air curtain; and
 - ii. Post operating instructions at the site where they are readily available at the request of TCEQ personnel;
- c. Within 60 days after the effective date of this Agreed Order, remove and properly dispose of all unauthorized MSW from the burn site and burn trenches and completely fill the old trenches with incombustible material and cover them with soil; and
- d. Within 75 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No(s). 3.a. through 3.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Air/Waste Section, Manager
Harlingen Regional Office
Texas Commission on Environmental Quality
1804 West Jefferson Avenue
Harlingen, Texas 78550-5247

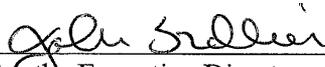
4. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.

5. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City 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.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. 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.
8. 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.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. 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

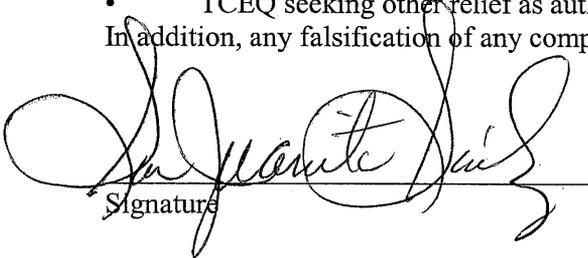
1/21/2008
Date

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

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

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

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



Signature

11/19/07
Date

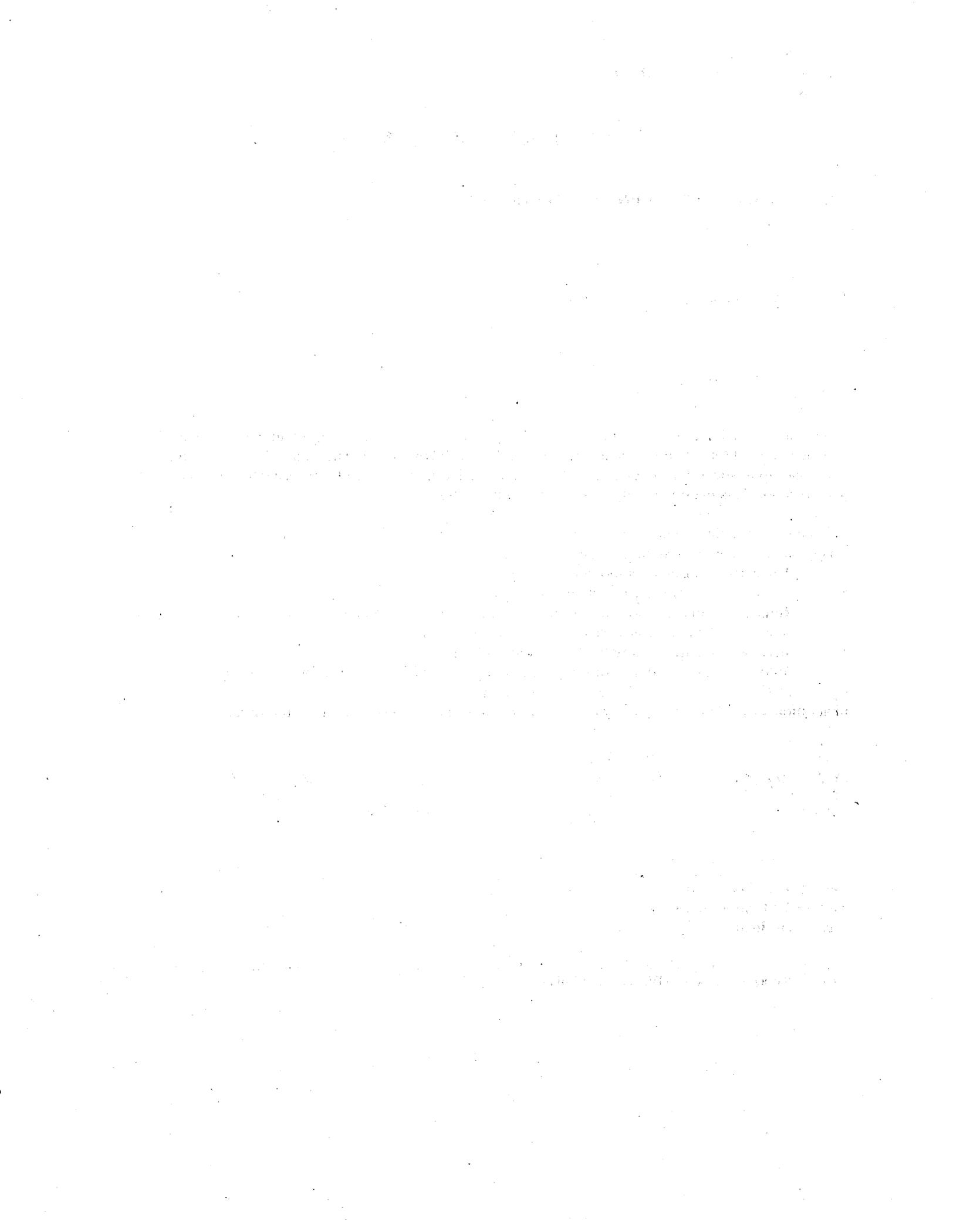
SAN JUANITA SANCHEZ

MAYOR

Name (Printed or typed)
Authorized Representative of
City of San Juan

Title

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



Attachment A
Docket Number: 2007-1439-MLM-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of San Juan

Payable Penalty Amount: Two Thousand Eight Hundred Eighty Dollars (\$2,880)

SEP Amount: Two Thousand Eight Hundred Eighty Dollars (\$2,880)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Wastewater Treatment Assistance

Location of SEP: Hidalgo County

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

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

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 protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

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

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

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

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

