EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0283-MWD-E **TCEQ ID:** RN102092962 **CASE NO.:** 32843

RESPONDENT NAME: City of Palmer

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
X WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: City of Palmer Wastewater Treatment Facility, 0.40 mile south and 0.10 mile west of the intersection of Farm-to-Market Road 813 and Interstate Highway 45 in the City of Palmer, Ellis County

TYPE OF OPERATION: Wastewater treatment

SMALL BUSINESS: ___ Yes X No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on December 10, 2007. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223

TCEQ Enforcement Coordinator: Mr. J. Craig Fleming, Enforcement Division, Enforcement Team 3, MC 219, (512) 239-5806; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171

Respondent: The Honorable Don Huskins, Mayor, City of Palmer, P.O. Box 489, Palmer, Texas 75152-0489
Mr. Douglas W. Young, City Administrator, City of Palmer, P.O. Box 489, Palmer, Texas 75152-0489

Respondent's Attorney: Not represented by counsel on this enforcement matter.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint _X_ Routine __ Enforcement Follow-up __ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** January 30, 2007 **Date of NOV/NOE Relating to this Case:** February 26, 2007 (NOE) **Background Facts:** This was a routine investigation. Five violations were documented. **WATER** 1) Failed to comply with the permitted effluent limits at Outfall 001 for total suspended solids, dissolved oxygen, and biochemical oxygen demand [Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. 13620001, Effluent Limitations and Monitoring Requirements for Outfall 001]. 2) Failed to submit the annual sludge disposal report by September 1 of each year as required by the permit. Specifically, the annual sludge reports due September 1, 2005 and September 1, 2006 were not received [30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. 13620001, Sludge Provisions, Sec. II (F) Reporting Requirements]. 3) Failed to maintain authorization to discharge wastewater. The existing permit expired on December 1, 2006 [30 Tex. Admin. Code § 305.42(a) and Tex. Water Code § 26.121]. 4) Failed to submit monthly discharge monitoring reports. Specifically, the Facility did not submit the monthly discharge monitoring reports to the TCEQ between February and October 2006 [30 Tex. Admin. Code § 319.7(d)].	**Total Assessed:** $26,390 **Total Deferred:** $5,278 _X_ Expedited Settlement __ Financial Inability to Pay **SEP Conditional Offset:** $21,112 **Total Paid (Due) to General Revenue:** $0 **Site Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Person Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Major Source:** __ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** 1) The Executive Director recognizes that the City has implemented the following corrective measures at the Facility: a. Submitted originals of the monthly discharge reports for the months of February to October 2006 on April 16, 2007; b. Began submitting the monthly discharge reports routinely by November 20, 2006; c. Submitted an initial wastewater discharge permit application January 1, 2007; d. Submitted the complete wastewater discharge permit application on April 16, 2007; e. Submitted the annual sludge reports for the years 2005 and 2006 on April 16, 2007; and f. Constructed a livestock resistant fence around the equalization basin and posted warning signs around the perimeter prior to April 11, 2007. **Ordering Provisions:** 1) The order will require the City to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A) 2) The Order will also require the City to: a. Immediately upon the effective date of this Agreed Order, until such time that authorization to operate is obtained, or until 300 days after the effective date of this Agreed Order, whichever is earlier, comply with the permit limit in expired TPDES Permit No. 0013620001; b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such request or by any other deadline specified in writing;

5) Failed to completely fence the equalization basin and post warning signs [30 TEX. ADMIN. CODE § 317.7(e)].		c. Within 30 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision 2.a.; and d. Within 300 days after the effective date of this Agreed Order, submit written certification that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts, and /or other records to demonstrate that authorization to discharge wastewater has been obtained and that the City is operating in compliance with that authorization.

Attachment A
Docket Number: 2007-0283-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Palmer
Penalty Amount:	Twenty-One Thousand One Hundred Twelve Dollars ($21,112)
Project 1 SEP Offset Amount:	Eight Thousand Eight Hundred Two Dollars ($8,802)
Project 1 Type of SEP:	Project 1: Pre-approved Contribution to Texas RC&D ***Clean School Bus Program***
Project 2 SEP Offset Amount:	Twelve Thousand Three Hundred Ten Dollars ($12,310)
Project 2 Type of SEP:	Project 2: ***Collection and Recycling Event***
Location of SEP:	Ellis 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 1 – Clean School Bus Program

The Respondent shall contribute the specified SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be to the ***Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")*** for the *Clean School Bus Program* in Ellis County. Any remaining SEP funds not able to be spent on completion of the Clean School Bus Program may be spent, upon approval of the Executive Director, on cleanup of unauthorized trash dumps or abandoned tire sites, wastewater treatment assistance to low-income individuals, or another RC&D pre-approved project in Ellis County. Specifically, SEP monies will be used to aid local school districts, area transit agencies, and local governments in need of funding assistance to pay for the cost of retrofitting or replacing older diesel buses with alternative fueled or clean diesel buses to reduce emissions. Old buses deemed not suitable for retrofit will be permanently retired and only sold for scrap. The project will be administered in accordance with federal, state, and local environmental laws and regulations.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

Project 2 – Collection Event and Debris Recycling

The Respondent shall hold two collection and recycling events in which it shall collect and chip vegetative debris, recycle the debris into mulch, and distribute the mulch at no cost to the public. The Respondent shall advertise the events to the public in a newspaper of large circulation, shall provide free curbside collection of vegetative debris, shall purchase and utilize a brush chipper for the events, shall provide labor to operate the chipper, provide labor to operate the collection and distribution location, load mulch for citizens, and shall

provide signage for the collection and distribution location. Mulch shall be provided free to the public. Any remaining mulch not distributed to the public shall be beneficially applied to public areas by the Respondent.

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 shall receive no SEP credit for any portion spent on administrative costs.

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

Project 1 – Clean School Bus Program

Passengers, drivers, and students in the area where school buses idle during transportation are subject to harmful diesel exhaust emission every school day. Apart from containing the ozone precursors nitrogen oxides ("NOx") and hydrocarbons ("HC"), diesel exhaust is known to cause or exacerbate a number of respiratory diseases, including asthma. Due to the more stringent emissions standards introduced by the Environmental Projection Agency (EPA), model 2007 and newer buses are also cleaner in terms of particulate matter (PM) emissions than model year 2004 buses. New NOx and HC standards phased in between 2007 and 2010 will result in new school bus engines being 72% cleaner for HC and 90% cleaner for NOx than a bus produced to meet the 2004 federal standards for these pollutants.

This SEP will provide a discernible environmental benefit by retiring high-emission buses from service, purchasing newer, clean fuel technology buses, and/or retrofitting newer buses with fuel treatment technology that reduces PM and HC. Reduction of these pollutants will provide protection of the air and water, as well as provide protection of public health from the stated contaminants.

Project 2 – Collection and Recycling Event

This SEP shall provide a discernable environmental benefit by saving valuable landfill space (by reducing the amount of vegetative debris in the landfill), by reducing the amount of water used for irrigation of landscape areas, and shall provide reduction in air pollution by providing citizens an alternate means of handling vegetation other than burning. The project will provide an additional benefit of promoting recycling.

C. Minimum Expenditure

Project 1 – Clean School Bus Program

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

Project 2 – Collection and Recycling Event

The Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this Attachment A. The Respondent understands that completion of this

SEP may cost more than the SEP Offset Amount.

2. Performance Schedule

Project 1 – Clean School Bus Program

Within 30 days after the effective date of this Agreed Order, the Respondent shall 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. (RC&D)
Attention: SEP Coordinator
1716 Briarcrest Drive Suite 510
Bryan, Texas 77802-2700

Project 2 – Collection and Recycling Event

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin implementation of the SEP. The Respondent shall complete at least two collection events within one year of the effective date of this Agreed Order. The Respondent shall provide three annual reports on the project following the effective date of this Agreed Order.

3. Reporting

A. Progress Reports

Project 1 – Clean School Bus

No progress report is required if the Respondent completes the contribution prior to the end of 90 days after the effective date of this Agreed Order.

Project 2 – Collection and Recycling Event

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 in Section 2, above.

B. Final Report

Project 1 – Clean School Bus

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 the address listed in Section C, below.

Project 2 – Collection and Recycling Event

Within 30 days after final completion of the project, the Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;
4. Number of pounds or other quantification of the amount of debris collected, mulched, and distributed to the public;
5. Quantification of the amount of mulch beneficially applied by the Respondent;
6. Photographs of the project; and
7. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

C. Address

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

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

4. Additional Information and Access

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

5. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the TCEQ staff may require immediate payment of all or part of the SEP Offset Amount. In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of an SEP. The payment for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

TCEQ

Policy Revision 2 (September 2002) — *PCW Revision January 9, 2007*

DATES					
Assigned	28-Feb-2007				
PCW	17-Apr-2007	Screening	27-Feb-2007	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	City of Palmer		
Reg. Ent. Ref. No.	RN102092962		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	32843	No. of Violations	5
Docket No.	2007-0283-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	J. Craig Fleming
Multi-Media		EC's Team	EnforcementTeam 4
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* $9,100

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 195% Enhancement — *Subtotals 2, 3, & 7* $17,745

Notes: A 195% enhancement is recommended for having 31 self-reported NOVs, three NOVs same or similar, and one administrative order without denial language in the past five years.

Culpability — No — 0% Enhancement — *Subtotal 4* $0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply — 0% Reduction — *Subtotal 5* $0

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

Notes: The Respondent does not meet the good faith criteria.

0% Enhancement* — *Subtotal 6* $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$495
Approx. Cost of Compliance	$6,200

SUM OF SUBTOTALS 1-7 — *Final Subtotal* $26,845

OTHER FACTORS AS JUSTICE MAY REQUIRE — -2% — *Adjustment* -$455

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

Notes: Recommended reduction in the penalty so that monthly self reported effluent violations do not overly-impact the penalty amount.

Final Penalty Amount $26,390

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* $26,390

DEFERRAL — 20% Reduction — *Adjustment* -$5,278

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY — $21,112

Screening Date 27-Feb-2007 **Docket No.** 2007-0283-MWD-E

PCW

Policy Revision 2 (September 2002)

PCW Revision January 9, 2007

Respondent City of Palmer

Case ID No. 32843

Reg. Ent. Reference No. RN102092962

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Compliance History Worksheet

>> **Compliance History *Site* Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	34	170%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which notices were submitted*)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

		Please Enter Yes or No	
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) 195%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

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

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

A 195% enhancement is recommended for having 31 self-reported NOVs, three NOVs same or similar, and one administrative order without denial language in the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 195%

Screening Date 27-Feb-2007 **Docket No.** 2007-0283-MWD-E **PCW**

Respondent City of Palmer *Policy Revision 2 (September 2002)*

Case ID No. 32843 *PCW Revision January 9, 2007*

Reg. Ent. Reference No. RN102092962

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. 13620001, Effluent Limitations and Monitoring Requirements for Outfall 001

Violation Description Failed to comply with the permitted effluent limits at outfall 001, as documented during an investigation conducted on January 30, 2007. See attached table.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: A simplified model was used to evaluate Biochemical Oxygen Demand (5 day) to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Daily Average Flow and Ammonia-Nitrogen values were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 4 | 183 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $4,000

Four quarterly events are recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $180

Statutory Limit Test

Violation Final Penalty Total $11,600

This violation Final Assessed Penalty (adjusted for limits) $11,600

Economic Benefit Worksheet

Respondent City of Palmer
Case ID No. 32843
Reg. Ent. Reference No. RN102092962
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	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)	$1,800	1-Jan-2006	31-Dec-2007	2.0	$180	n/a	$180

Notes for DELAYED costs: The estimated cost for additional oversight and sampling which could have reduced or alleviated the exceedances. The Date Required was the date the noncompliances started. 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: $1,800

TOTAL: $180

Screening Date 27-Feb-2007 **Docket No.** 2007-0283-MWD-E **PCW**

Respondent City of Palmer *Policy Revision 2 (September 2002)*

Case ID No. 32843 *PCW Revision January 9, 2007*

Reg. Ent. Reference No. RN102092962

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17), and TPDES Permit No. 13620001, Sludge Provisions, Sec. II (F), Reporting Requirements

Violation Description Failed to submit the annual sludge disposal report by September 1 of each year as required by the permit, as documented during an investigation conducted on January 30, 2007. Specifically, the annual sludge reports due September 1, 2005, and September 1, 2006 were submitted on April 16, 2007.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: Most, but not all (at least 70 percent) of the rule requirement was met.

Adjustment $9,900

$100

Violation Events

Number of Violation Events 2 | 730 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty $200

Two annual events are recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $41

Statutory Limit Test

Violation Final Penalty Total $580

This violation Final Assessed Penalty (adjusted for limits) $580

Economic Benefit Worksheet

Respondent City of Palmer
Case ID No. 32843
Reg. Ent. Reference No. RN102092962
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	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	$500	1-Sep-2005	16-Apr-2007	1.6	$41	n/a	$41
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
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 DELAYED costs: The approximate cost ($250 per year) to submit the annual sludge report. The Date Required was the date required by the facility's permit. The Final Date is the date of compliance.

Notes for AVOIDED costs: NA

Approx. Cost of Compliance $500

TOTAL $41

Screening Date 27-Feb-2007 **Docket No.** 2007-0283-MWD-E **PCW**

Respondent City of Palmer *Policy Revision 2 (September 2002)*

Case ID No. 32843 *PCW Revision January 9, 2007*

Reg. Ent. Reference No. RN102092962

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.42(a) and Tex. Water Code § 26.121

Violation Description Failed to maintain authorization to discharge wastewater. Specifically, the existing permit expired on December 1, 2006, as documented during an investigation conducted on January 30, 2007.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes: 100% of the rule requirement was not met.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 3 | 58 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $3,000

Three monthly events are recommended from the expiration date of December 1, 2006 to the screening date of February 27, 2007.

Economic Benefit (EB) for this violation

Estimated EB Amount $219

Statutory Limit Test

Violation Final Penalty Total $8,700

This violation Final Assessed Penalty (adjusted for limits) $8,700

Economic Benefit Worksheet

Respondent City of Palmer
Case ID No. 32843
Reg. Ent. Reference No. RN102092962
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	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	$2,500	1-Dec-2006	1-Sep-2008	1.8	$219	n/a	$219
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: Estimated cost to complete and submit a permit application and obtain authorization to discharge wastewater. The Date Required was the date of expiration of previous permit application. The Final Date is the expected date of compliance.

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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: NA

Approx. Cost of Compliance: $2,500

TOTAL: $219

Screening Date 27-Feb-2007 **Docket No.** 2007-0283-MWD-E **PCW**

Respondent City of Palmer *Policy Revision 2 (September 2002)*

Case ID No. 32843 *PCW Revision January 9, 2007*

Reg. Ent. Reference No. RN102092962

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 319.7(d)

Violation Description Failed to submit monthly discharge monitoring reports, as documented during an investigation conducted on January 30, 2007. Specifically, the monthly discharge monitoring reports for the months between February and October 2006 were submitted on April 16, 2007.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: Most, but not all (at least 70 percent) of the rule requirement was met.

Adjustment $9,900

$100

Violation Events

Number of Violation Events 9

273 Number of violation days

mark only one with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $900

Nine monthly events (one for each month) are recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $48

Statutory Limit Test

Violation Final Penalty Total $2,610

This violation Final Assessed Penalty (adjusted for limits) $2,610

Economic Benefit Worksheet

Respondent City of Palmer
Case ID No. 32843
Reg. Ent. Reference No. RN102092962
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	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)	$900	20-Mar-2006	16-Apr-2007	1.1	$48	n/a	$48

Notes for DELAYED costs: Estimated cost for submitting ($100 per month) monthly Discharge Monitoring Reports. The Date Required was the date requiring the February DMR report to be submitted. The Final Date was the date of compliance.

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

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

Notes for AVOIDED costs: NA

Approx. Cost of Compliance: $900

TOTAL: $48

Screening Date 27-Feb-2007 **Docket No.** 2007-0283-MWD-E **PCW**

Respondent City of Palmer *Policy Revision 2 (September 2002)*

Case ID No. 32843 *PCW Revision January 9, 2007*

Reg. Ent. Reference No. RN102092962

Media [Statute] Water Quality

Enf. Coordinator J. Craig Fleming

Violation Number 5

Rule Cite(s) 30 Tex. Admin. Code § 317.7(e)

Violation Description Failed to completely fence the plant area. Specifically, the respondent failed to construct a livestock fence and post warning signs around the equalization basin, as documented during an investigation conducted on January 30, 2007.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

	Release	Harm: Major	Moderate	Minor
OR	Actual			
	Potential		x	

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1 | 28 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One quarterly event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $7

Statutory Limit Test

Violation Final Penalty Total $2,900

This violation Final Assessed Penalty (adjusted for limits) $2,900

Economic Benefit Worksheet

Respondent City of Palmer
Case ID No. 32843
Reg. Ent. Reference No. RN102092962
Media Water Quality
Violation No. 5

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	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)	$500	30-Jan-2007	11-Apr-2007	0.2	$0	$6	$7
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: Estimated cost to provide a livestock fence around the perimeter of the equalization basin. The Date Required was the date of the investigation. The Final Date is the date of compliance.

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

Notes for AVOIDED costs: NA

Approx. Cost of Compliance: $500

TOTAL: $7

Effluent Violation Table

City of Palmer
TPDES Permit No. 0013620001 (Outfall 001)
Docket No. 2007-0283-MWD-E

Permitted Effluent Limits	Monitoring Period End Date					
	January 2006	March 2006	April 2006	August 2006	September 2006	November 2006
TSS Daily Avg. Limit of 28 (in lbs/day)	36.6877	C	C	C	C	C
TSS Daily Avg. Limit of 15 (in mg/L)	C	C	C	C	18.0	C
DO Monthly Min. Limit of 4.0 (in mg/L)	C	3.8	C	1.6	C	C
BOD Daily Avg. Limit of 19 (in lbs/day)	C	C	C	C	C	25.0800
BOD Daily Avg. Limit of 10 (in mg/L)	C	C	11.0	C	C	13.0

Avg. = average	mg/L = milligrams per Liter	lbs/day = pounds per day	DO = Dissolved Oxygen	
C = compliant	Min. = minimum	TSS = Total Suspended Solids	BOD = Biochemical Oxygen Demand (5 day)	

Compliance History

Customer/Respondent/Owner-Operator:	CN600637441	City of Palmer	Classification: AVERAGE	Rating: 3.10
Regulated Entity:	RN102092962	CITY OF PALMER	Classification: AVERAGE	Site Rating: 3.10

ID Number(s):

WASTEWATER	PERMIT	WQ0013620001
WASTEWATER	PERMIT	TPDES0026603
WASTEWATER	PERMIT	TX0026603
WASTEWATER	PERMIT	TX0026603000
WASTEWATER LICENSING	LICENSE	WQ0013620001

Location: Located approximately 0.40 mile south and 0.10 mile west of the intersection of Farm-to-Market Road 813 and Interstate Highway 45 in the City of Palmer in Ellis County, Texas.

Rating Date: September 01 06 Repeat Violator: NO

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: February 26, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 26, 2002 to February 26, 2007

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

Name: J. Craig Fleming Phone: (512) 239-5806

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

Effective Date: 07/05/2004 ADMINORDER 2003-1319-MWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT
Description: As owner and operator of the Facility, The City is alleged to have exceeded the Effluent Limitations and Monitoring Requirements.

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	02/27/2002	(174294)
2	04/18/2002	(174301)
3	05/23/2002	(174305)
4	06/17/2002	(174308)
5	07/15/2002	(174311)
6	08/30/2002	(174314)
7	10/03/2002	(174317)
8	10/24/2002	(174319)
9	12/02/2002	(174322)
10	12/27/2002	(174325)
11	01/27/2003	(174329)
12	02/20/2003	(174295)

13 03/14/2003 (174297)
14 04/22/2003 (174302)
15 05/01/2003 (29447)
16 05/14/2003 (252075)
17 05/16/2003 (246863)
18 05/19/2003 (302226)
19 06/12/2003 (302228)
20 07/31/2003 (302229)
21 08/22/2003 (302230)
22 09/19/2003 (302231)
23 09/29/2003 (147326)
24 11/18/2003 (302232)
25 12/22/2003 (302234)
26 01/20/2004 (302235)
27 02/02/2004 (302233)
28 02/26/2004 (302223)
29 04/07/2004 (302224)
30 05/03/2004 (302225)
31 06/23/2004 (302227)
32 06/23/2004 (354830)
33 08/02/2004 (354831)
34 08/16/2004 (354832)
35 08/31/2004 (272506)
36 08/31/2004 (249415)
37 09/15/2004 (354833)
38 10/14/2004 (354834)
39 11/18/2004 (354835)
40 12/20/2004 (383369)
41 01/14/2005 (383370)
42 02/14/2005 (383367)
43 03/09/2005 (383368)
44 05/03/2005 (421192)
45 06/02/2005 (421193)
46 06/23/2005 (421194)
47 07/22/2005 (442177)
48 08/15/2005 (442178)
49 09/29/2005 (442179)
50 12/09/2005 (471109)
51 12/09/2005 (471110)
52 12/30/2005 (471111)
53 03/27/2006 (454743)
54 02/23/2007 (537950)

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

Date: 03/31/2002 (174301)
Self Report? YES Cla 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: 04/30/2002 (174305)
Self Report? YES Cla Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 06/30/2002 (174311)
Self Report? YES Cla Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 09/30/2002 (174319)
Self Report? YES Cla 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: 10/31/2002 (174322)

Self Report? YES Cla 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: 11/30/2002 (174325)

Self Report? YES Cla 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: 12/31/2002 (174329)

Self Report? YES Cla Moderate

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

Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2003 (174302)

Self Report? YES Cla 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: 04/25/2003 (29447)

Self Report? NO Cla Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.4(i)[G]
30 TAC Chapter 317 317.4(k)[G]

Description: Failure to remove the sludge from the sludge lagoon in a

Self Report? NO Cla Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.4(d)[G]

Description: Failure to maintain skimmer.

Self Report? NO Cla Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.6(b)(3)[G]

Description: Failure to maintain one side of the chlorine contact chamber

Self Report? NO Cla Moderate

Citation: 30 TAC Chapter 305, SubChapter O 305.535(c)(1)[G]

Description: Three sewer overflows in the collection system since the last

Self Report? NO Cla Minor

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

Description: Failure to install a staff gauge to more easily measure flow at

Self Report? NO Cla Moderate

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

Description: Failure to comply with the permitted BOD and TSS effluent

Date: 05/16/2003 (246863)

Self Report? NO Cla Moderate

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

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Cla Moderate

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

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Cla Moderate

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

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Cla Moderate

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

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO Cla Moderate

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

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 05/31/2003 (302228)

Self Report? YES Cla Moderate

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

Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2003 (302230)

Self Report? YES Cla 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 (302231)

Self Report? YES Cla 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 (302234)

Self Report? YES Cla 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: 02/29/2004 (302224)

Self Report? YES Cla 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 (302227)

Self Report? YES Cla Moderate

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

Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2004 (354830)

Self Report? YES Cla Moderate

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

Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2004 (354831)

Self Report? YES Cla 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 (354833)

Self Report? YES Cla 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: 11/30/2004 (383369)

Self Report? YES Cla Moderate

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

Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2005 (383367)

Self Report? YES Cla 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: 02/28/2005 (383368)

Self Report? YES Cla Moderate

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

Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2005 (442177)

Self Report? YES Cla Moderate

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

Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2005 (442178)

Self Report? YES Cla Moderate

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

Description: Failure to meet the limit for one or more permit parameter
Date: 09/30/2005 (471109)

Self Report? YES Cla 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: 10/31/2005 (471110)

Self Report? YES Cla Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 11/30/2005 (471111)

Self Report? YES Cla Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 03/27/2006 (454743)

Self Report? NO Cla Minor
ssif

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.4(i)[G]
30 TAC Chapter 317 317.4(k)[G]
Description: Failure to remove the sludge from the sludge lagoon in a
Self Report? NO Cla Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: Failure to remove sludge from the sludge lagoon.
Self Report? NO Cla Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet minimum chlorine residual limit.
Self Report? NO Cla Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to comply with the permitted effluent limits for TSS, BOD5, DO, chlorine residual, and maximum daily flow.
Self Report? NO Cla Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to submit non-compliance notifications as required by
Self Report? NO Cla Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)
30 TAC Chapter 305, SubChapter F 305.125(11)(C)[G]
Description: Failure to submit annual sludge report.

Date: 01/31/2006

Self Report? YES Cla Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 03/31/3006

Self Report? YES Cla Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 04/30/2006

Self Report? YES Cla 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: 08/31/2007

Self Report? YES Cla Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 09/30/2006

Self Report? YES Cla Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2006

Self Report? YES Cla Moderate

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

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
CITY OF PALMER	§	
RN102092962	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2007-0283-MWD-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 Palmer ("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 appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment facility located approximately 0.40 mile south and 0.10 mile west of the intersection of Farm-to-Market Road 813 and Interstate Highway 45 in the City of Palmer in Ellis County, Texas (the "Facility").

2. The City has discharged municipal waste, recreational waste, agricultural waste, or industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.

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 March 3, 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 Twenty-Six Thousand Three Hundred Ninety Dollars ($26,390) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). Five Thousand Two Hundred Seventy-Eight Dollars ($5,278) 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. Twenty-One Thousand One Hundred Twelve Dollars ($21,112) 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 recognizes that the City has implemented the following corrective measures at the Facility:

   a. Submitted originals of the monthly discharge reports for the months of February to October 2006 on April 16, 2007;

   b. Began submitting the monthly discharge reports routinely by November 20, 2006;

   c. Submitted an initial wastewater discharge permit application January 1, 2007;

   d. Submitted the complete wastewater discharge permit application on April 16, 2007;

   e. Submitted the annual sludge reports for the years 2005 and 2006 on April 16, 2007; and

   f. Constructed a livestock resistant fence around the equalization basin and posted warning signs around the perimeter prior to April 11, 2007.

10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.

11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

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

II. ALLEGATIONS

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

1. Failed to comply with the permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. 13620001, Effluent Limitations and Monitoring Requirements for Outfall 001, as documented during an investigation conducted on January 30, 2007, as indicated in the table below.

Effluent Violation Table
City of Palmer
TPDES Permit No. 0013620001 (Outfall 001)
Docket No. 2007-0283-MWD-E

Permitted Effluent Limits	Monitoring Period End Date					
	January 2006	March 2006	April 2006	August 2006	September 2006	November 2006
TSS Daily Avg. Limit of 28 (in lbs/day)	36.6877	C	C	C	C	C
TSS Daily Avg. Limit of 15 (in mg/L)	C	C	C	C	18.0	C
DO Monthly Min. Limit of 4.0 (in mg/L)	C	3.8	C	1.6	C	C
BOD Daily Avg. Limit of 19 (in lbs/day)	C	C	C	C	C	25.0800
BOD Daily Avg. Limit of 10 (in mg/L)	C	C	11.0	C	C	13.0

Avg. = average	mg/L = milligrams per Liter	lbs/day = pounds per day	DO = Dissolved Oxygen	
C = compliant	Min. = minimum	TSS = Total Suspended Solids	BOD = Biochemical Oxygen Demand (5 day)	

2. Failed to submit the annual sludge disposal report by September 1 of each year as required by the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. 13620001, Sludge Provisions, Sec. II (F) Reporting Requirements, as documented during an investigation conducted on January 30, 2007. Specifically, the annual sludge reports due September 1, 2005 and September 1, 2006 were not received.

3. Failed to maintain authorization to discharge wastewater, in violation of 30 TEX. ADMIN. CODE § 305.42(a) and TEX. WATER CODE § 26.121, as documented during an investigation conducted on January 30, 2007. The existing permit expired on December 1, 2006.

4. Failed to submit monthly discharge monitoring reports, in violation of 30 TEX. ADMIN. CODE § 319.7(d), as documented during an investigation conducted on January 30, 2007. Specifically, the Facility did not submit the monthly discharge monitoring reports to the TCEQ between February and October 2006.

5. Failed to completely fence the equalization basin and post warning signs, in violation of 30 TEX. ADMIN. CODE § 317.7(e), as documented during an investigation conducted on January 30, 2007.

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 Palmer, Docket No. 2007-0283-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 I, Paragraph 6 above, Twenty-One Thousand One Hundred Twelve Dollars ($21,112) of the assessed administrative penalty shall be offset with the condition that the City implements 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, until such time that authorization to operate is obtained, or until 300 days after the effective date of this Agreed Order, whichever is earlier, comply with the permit limit in expired TPDES Permit No. 13620001;

b. Respond completely and adequately, as determined by the TCEQ, to all requests for information concerning the permit application within 30 days after the date of such request or by any other deadline specified in writing;

c. Within 30 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision 3.a. as described below; and

d. Within 300 days after the effective date of this Agreed Order, submit written certification that either authorization to operate has been obtained or that operation has ceased until such time that appropriate authorization is obtained. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate that authorization to discharge wastewater has been obtained and that the City is operating in compliance with that authorization. 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 this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

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 Facility operations referenced in this Agreed Order.

5. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City 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

_____ 2/25/2008
For the Executive Director 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, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

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

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

_____ 9/28/07
Signature Date

Douglas W. Young City Administrator
Name (Printed or typed) Title
Authorized Representative of
City of Palmer

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: 2007-0283-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Palmer
Penalty Amount:	Twenty-One Thousand One Hundred Twelve Dollars ($21,112)
Project 1 SEP Offset Amount:	Eight Thousand Eight Hundred Two Dollars ($8,802)
Project 1 Type of SEP:	Project 1: Pre-approved Contribution to Texas RC&D ***Clean School Bus Program***
Project 2 SEP Offset Amount:	Twelve Thousand Three Hundred Ten Dollars ($12,310)
Project 2 Type of SEP:	Project 2: ***Collection and Recycling Event***
Location of SEP:	Ellis 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 1 – Clean School Bus Program

The Respondent shall contribute the specified SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be to the ***Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")*** for the *Clean School Bus Program* in Ellis County. Any remaining SEP funds not able to be spent on completion of the Clean School Bus Program may be spent, upon approval of the Executive Director, on cleanup of unauthorized trash dumps or abandoned tire sites, wastewater treatment assistance to low-income individuals, or another RC&D pre-approved project in Ellis County. Specifically, SEP monies will be used to aid local school districts, area transit agencies, and local governments in need of funding assistance to pay for the cost of retrofitting or replacing older diesel buses with alternative fueled or clean diesel buses to reduce emissions. Old buses deemed not suitable for retrofit will be permanently retired and only sold for scrap. The project will be administered in accordance with federal, state, and local environmental laws and regulations.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

Project 2 – Collection Event and Debris Recycling

The Respondent shall hold two collection and recycling events in which it shall collect and chip vegetative debris, recycle the debris into mulch, and distribute the mulch at no cost to the public. The Respondent shall advertise the events to the public in a newspaper of large circulation, shall provide free curbside collection of vegetative debris, shall purchase and utilize a brush chipper for the events, shall provide labor to operate the chipper, provide labor to operate the collection and distribution location, load mulch for citizens, and shall

provide signage for the collection and distribution location. Mulch shall be provided free to the public. Any remaining mulch not distributed to the public shall be beneficially applied to public areas by the Respondent.

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 shall receive no SEP credit for any portion spent on administrative costs.

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

Project 1 – Clean School Bus Program

Passengers, drivers, and students in the area where school buses idle during transportation are subject to harmful diesel exhaust emission every school day. Apart from containing the ozone precursors nitrogen oxides ("NOx") and hydrocarbons ("HC"), diesel exhaust is known to cause or exacerbate a number of respiratory diseases, including asthma. Due to the more stringent emissions standards introduced by the Environmental Projection Agency (EPA), model 2007 and newer buses are also cleaner in terms of particulate matter (PM) emissions than model year 2004 buses. New NOx and HC standards phased in between 2007 and 2010 will result in new school bus engines being 72% cleaner for HC and 90% cleaner for NOx than a bus produced to meet the 2004 federal standards for these pollutants.

This SEP will provide a discernible environmental benefit by retiring high-emission buses from service, purchasing newer, clean fuel technology buses, and/or retrofitting newer buses with fuel treatment technology that reduces PM and HC. Reduction of these pollutants will provide protection of the air and water, as well as provide protection of public health from the stated contaminants.

Project 2 – Collection and Recycling Event

This SEP shall provide a discernable environmental benefit by saving valuable landfill space (by reducing the amount of vegetative debris in the landfill), by reducing the amount of water used for irrigation of landscape areas, and shall provide reduction in air pollution by providing citizens an alternate means of handling vegetation other than burning. The project will provide an additional benefit of promoting recycling.

C. Minimum Expenditure

Project 1 – Clean School Bus Program

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

Project 2 – Collection and Recycling Event

The Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this Attachment A. The Respondent understands that completion of this

SEP may cost more than the SEP Offset Amount.

2. Performance Schedule

Project 1 – Clean School Bus Program

Within 30 days after the effective date of this Agreed Order, the Respondent shall 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. (RC&D)
Attention: SEP Coordinator
1716 Briarcrest Drive Suite 510
Bryan, Texas 77802-2700

Project 2 – Collection and Recycling Event

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin implementation of the SEP. The Respondent shall complete at least two collection events within one year of the effective date of this Agreed Order. The Respondent shall provide three annual reports on the project following the effective date of this Agreed Order.

3. Reporting

A. Progress Reports

Project 1 – Clean School Bus

No progress report is required if the Respondent completes the contribution prior to the end of 90 days after the effective date of this Agreed Order.

Project 2 – Collection and Recycling Event

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 in Section 2, above.

B. Final Report

Project 1 – Clean School Bus

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 the address listed in Section C, below.

Project 2 – Collection and Recycling Event

Within 30 days after final completion of the project, the Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;
4. Number of pounds or other quantification of the amount of debris collected, mulched, and distributed to the public;
5. Quantification of the amount of mulch beneficially applied by the Respondent;
6. Photographs of the project; and
7. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

C. Address

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

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

4. Additional Information and Access

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

5. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the TCEQ staff may require immediate payment of all or part of the SEP Offset Amount. In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of an SEP. The payment for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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