EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1060-MWD-E **TCEQ ID:** RN102896024 **CASE NO.:** 34001

RESPONDENT NAME: City of Strawn

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 Strawn Wastewater Facility, located approximately 500 feet east of Palo Pinto Avenue and 500 feet north of State Highway 108 on the east side of Strawn, Palo Pinto County

TYPE OF OPERATION: Wastewater treatment facility

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 February 4, 2008. 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: Ms. Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 761-3048; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171
Respondent: The Honorable David Day, Mayor, City of Strawn, P.O. Box 581, Strawn, Texas 76475
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 ___ Routine ___ Enforcement Follow-up _X_ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** June 7, 2007 **Date of NOV/NOE Relating to this Case:** June 13, 2007 (NOE) **Background Facts:** This was a record review. **WATER** Failed to comply with permit effluent limits for biochemical oxygen demand, pH, dissolved oxygen, and flow [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010326001, Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6].	**Total Assessed:** $7,080 **Total Deferred:** $1,416 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $5,664 **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	**Ordering Provisions:** 1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A). 2) The Order will also require the Respondent to, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010326001 and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.

Additional ID No(s).: TX0022977 AND WQ0010326001

Attachment A
Docket Number: 2007-1060-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Strawn
Penalty Amount:	Five Thousand Six Hundred Sixty-Four Dollars ($5,664)
SEP Offset Amount:	Five Thousand Six Hundred Sixty-Four Dollars ($5,664)
Type of SEP:	Custom (with pre-approved concept)
Location of SEP:	Palo Pinto County

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

1. Project Description

A. Project

The Respondent shall perform an erosion control project at the Lake Tucker dam in Palo Pinto County to reduce the likelihood of further erosion and downstream flooding. Erosion in this area, if left without repair, may undermine the structural integrity of the dam. The erosion currently causes sedimentation in downstream waterways. The Respondent shall utilize city employees to perform regrading and seeding to correct and prevent further erosion, post signs in the area to prevent vehicular traffic, and encourage the growth of the planted vegetation seeds.

The Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs. To the extent it can be documented, the Respondent will receive credit for the overtime hours its employees and equipment are used in implementing the SEP. The Respondent will not receive credit for gratuities and/or inducements for volunteers.

The Respondent shall perform this project in accordance with all federal, state and local environmental laws and regulations, including compliance with any requirements to obtain permits or authorizations.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing both erosion and downstream flooding. Erosion and siltation can do two things to increase waterway pollution: 1) divert water flows, initiating further erosion downstream; and 2) pollute waterways with turbid silt. The grasses to be planted along the dam area will assist in holding the soil in place without significantly impeding the flow of the water. Continued erosion leads to high sediment loads in waterways, silting, and disruption of ecosystems.

C. Minimum Expenditure

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

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin implementation of the project. The Respondent shall complete the project within 365 days after the effective date of this Agreed Order and provide a final report in accordance with Item 3.B., below.

3. Reporting

A. Progress Reports

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

B. Final Report

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

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;
4. Map showing specific location of area addressed;
5. Photographs of the project showing the project area before commencement and after the project is complete);
6. Documentation of posting of signs; and
7. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

C. Address

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

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

4. Additional Information and Access

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

5. Failure to Fully Perform

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

In the event of incomplete performance, with the payment, the Respondent shall include the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The payment for any amount due if the SEP is not completed shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

6. Publicity

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

7. Clean Texas Program

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

8. Other SEPs by TCEQ or Other Agencies

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

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision June 26, 2007*

TCEQ

DATES					
Assigned	18-Jun-2007				
PCW	19-Jul-2007	Screening	26-Jun-2007	EPA Due	

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Strawn		
Reg. Ent. Ref. No.	RN102896024		
Facility/Site Region	Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	34001	No. of Violations	1
Docket No.	2007-1060-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Heather Brister
Multi-Media		EC's Team	EnforcementTeam 1
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* **$4,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — **92%** Enhancement — *Subtotals 2, 3, & 7* **$3,680**

Notes: The Respondent self-reported 18 months of effluent violations and received one notice of violation (NOV) for a violation that is considered not same or similar to those cited in this action.

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	$200
Approx. Cost of Compliance	$2,000

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$7,680**

OTHER FACTORS AS JUSTICE MAY REQUIRE — **-8%** — *Adjustment* **-$600**

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

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

Final Penalty Amount **$7,080**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$7,080**

DEFERRAL — **20%** Reduction — *Adjustment* **-$1,416**

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 **$5,664**

Screening Date 26-Jun-2007 **Docket No.** 2007-1060-MWD-E **PCW**

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

Case ID No. 34001 *PCW Revision June 26, 2007*

Reg. Ent. Reference No. RN102896024

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

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*)	18	90%
	Other written NOVs	1	2%
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	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 (*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) 92%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent self-reported 18 months of effluent violations and received one notice of violation (NOV) for a violation that is considered not same or similar to those cited in this action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 92%

Screening Date 26-Jun-2007 **Docket No.** 2007-1060-MWD-E **PCW**

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

Case ID No. 34001 *PCW Revision June 26, 2007*

Reg. Ent. Reference No. RN102896024

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010326001, Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6

Violation Description Failed to comply with permit effluent limits as documented by a TCEQ record review of self-reported data conducted on June 7, 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 five-day biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Flow, pH and dissolved oxygen were also considered. As a result of these discharges, human health or the environment have been exposed to insignificant amounts of pollutants which do not exceed levels harmful to human health or environmental receptors.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 4 243 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 $200

Statutory Limit Test

Violation Final Penalty Total $7,080

This violation Final Assessed Penalty (adjusted for limits) $7,080

Economic Benefit Worksheet

Respondent City of Strawn
Case ID No. 34001
Reg. Ent. Reference No. RN102896024
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)	$2,000	1-Mar-2006	29-Feb-2008	2.0	$200	n/a	$200

Notes for DELAYED costs: Estimated cost for recirculating the ponds to bring the five-day biochemical oxygen demand back within the permit limits. Date Required is the initial month of noncompliance. Final Date is the anticipated 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: $2,000

TOTAL: $200

Effluent Limit Violation Table

Respondent	City of Strawn
ID Number(s)	WQ0010326001
Docket Number	2007-1060-MWD-E
Enf. Coordinator	Heather Brister

Corresponds to Violation Number: 1

	EFFLUENT PARAMETER			
	Permit Limit			
	Biochemical Oxygen Demand Daily Average Concentration 30 Milligrams per Liter	pH Maximum 9.0 Standard Units	Dissolved Oxygen Minimum 4.0 Milligrams per Liter	Daily Average Flow 0.10 Million Gallons per Day
Month/Year				
Mar-06	32	c	c	0.197
Apr-06	c	9.2	c	c
Jun-06	c	9.9	3.5	c
Jul-06	c	c	2.4	c
Oct-06	30.3	c	3	c
Dec-06	33.8	c	3.6	c
Jan-07	48.7	c	c	c
Feb-07	41.8	c	3.5	c

c = compliant

Compliance History

Customer/Respondent/Owner-Operator:	CN600446934	City of Strawn	Classification: AVERAGE	Rating: 2.29
Regulated Entity:	RN102896024	CITY OF STRAWN	Classification: AVERAGE	Site Rating: 0.85
ID Number(s):				
	WASTEWATER		PERMIT	WQ0010326001
	WASTEWATER		PERMIT	TPDES0022977
	WASTEWATER		PERMIT	TX0022977
	WASTEWATER LICENSING		LICENSE	WQ0010326001

Location: Approximately 500 feet east of Palo Pinto Avenue and 500 feet north of State Highway 108 on the east side of Strawn in Palo Pinto County, Texas.

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

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: June 25, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: June 25, 2002 to June 25, 2007

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

Name: Heather Brister Phone: 512-239-1203

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	08/19/2002	(166715)
2	09/12/2002	(166713)
3	09/27/2002	(166717)
4	10/21/2002	(166719)
5	12/02/2002	(166720)
6	12/02/2002	(382670)
7	12/17/2002	(166723)
8	03/03/2003	(382668)
9	03/12/2003	(166709)
10	06/06/2003	(298908)
11	08/05/2003	(298910)
12	08/28/2003	(298911)
13	09/24/2003	(298912)
14	10/24/2003	(298913)
15	12/04/2003	(298914)
16	12/18/2003	(255107)
17	12/29/2003	(298915)
18	01/21/2004	(298916)
19	01/23/2004	(260594)
20	02/23/2004	(298905)
21	03/29/2004	(298906)
22	04/26/2004	(353541)
23	05/24/2004	(353542)
24	06/24/2004	(298909)
25	07/26/2004	(353543)
26	09/03/2004	(353544)
27	09/23/2004	(353545)

28 10/29/2004 (353546)
29 11/29/2004 (382671)
30 12/30/2004 (382672)
31 01/28/2005 (382673)
32 03/04/2005 (420472)
33 03/28/2005 (382669)
34 04/22/2005 (420473)
35 05/19/2005 (420474)
36 06/23/2005 (420475)
37 07/22/2005 (441520)
38 08/22/2005 (441521)
39 09/23/2005 (441522)
40 10/26/2005 (469809)
41 11/28/2005 (469810)
42 12/27/2005 (469811)
43 01/23/2006 (469812)
44 02/21/2006 (469807)
45 03/27/2006 (469808)
46 04/12/2006 (462127)
47 04/20/2006 (499067)
48 05/22/2006 (499068)
49 06/16/2006 (499069)
50 08/24/2006 (521116)
51 06/13/2007 (563455)

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

Date: **07/31/2002** (166715)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **08/31/2002** (166717)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **09/30/2002** (166719)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **10/31/2002** (382670)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **04/30/2003** (298908)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **07/31/2003** (298911)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **08/31/2003** (298912)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **09/30/2003** (298913)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **10/31/2003** (298914)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **12/18/2003** (255107)
Self Report? NO Classification Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: failure to provide calibration documentation

Self Report? NO Classification Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)[G]
30 TAC Chapter 319, SubChapter A 319.7(c)
Description: Failure to keep calibration log

Date: **01/31/2006** (469807)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **03/31/2006** (499067)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **04/30/2006** (499068)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **07/31/2006** (521116)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **06/30/2006**
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **10/31/2006**
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **12/31/2006**
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **01/31/2007**
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: **02/28/2007**
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.
N/A

G. Type of environmental management systems (EMSs).
N/A

H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.
N/A

J. Early compliance.
N/A

Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
CITY OF STRAWN	§	
RN102896024	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2007-1060-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 the City of Strawn ("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 500 feet east of Palo Pinto Avenue and 500 feet north of State Highway 108 on the east side of Strawn in Palo Pinto County, Texas (the "Facility").

2. The City has discharged municipal 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 June 18, 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 Seven Thousand Eighty Dollars ($7,080) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Five Thousand Six Hundred Sixty-Four Dollars ($5,664) of the administrative penalty shall be

conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP") and One Thousand Four Hundred Sixteen Dollars ($1,416) 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.

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 Facility, the City is alleged to have failed to comply with permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010326001, Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6, as documented by a record review of self-reported data conducted on June 7, 2007, and as shown in the table below:

	EFFLUENT PARAMETER **Permit Limit**			
	Biochemical Oxygen Demand Daily Average Concentration 30 Milligrams per Liter	pH Maximum 9.0 Standard Units	Dissolved Oxygen Minimum 4.0 Milligrams per Liter	Daily Average Flow 0.10 Million Gallons per Day
Month/Year				
Mar-06	32	c	c	0.197
Apr-06	c	9.2	c	c
Jun-06	c	9.9	3.5	c
Jul-06	c	c	2.4	c
Oct-06	30.3	c	3	c
Dec-06	33.8	c	3.6	c
Jan-07	48.7	c	c	c
Feb-07	41.8	c	3.5	c

c = compliant

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 Strawn, Docket No. 2007-1060-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 SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Five Thousand Six Hundred Sixty-Four Dollars ($5,664) 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, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010326001. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records, 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 Quality Section, Manager
Dalls/Forth 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

_____ 3/5/2008
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 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.

_____ 12/5/07
Signature Date

David Day _____ Mayor
Name (Printed or typed) Title
Authorized Representative of
City of Strawn

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: 2007-1060-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Strawn
Penalty Amount:	Five Thousand Six Hundred Sixty-Four Dollars ($5,664)
SEP Offset Amount:	Five Thousand Six Hundred Sixty-Four Dollars ($5,664)
Type of SEP:	Custom (with pre-approved concept)
Location of SEP:	Palo Pinto County

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

1. Project Description

A. Project

The Respondent shall perform an erosion control project at the Lake Tucker dam in Palo Pinto County to reduce the likelihood of further erosion and downstream flooding. Erosion in this area, if left without repair, may undermine the structural integrity of the dam. The erosion currently causes sedimentation in downstream waterways. The Respondent shall utilize city employees to perform regrading and seeding to correct and prevent further erosion, post signs in the area to prevent vehicular traffic, and encourage the growth of the planted vegetation seeds.

The Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs. To the extent it can be documented, the Respondent will receive credit for the overtime hours its employees and equipment are used in implementing the SEP. The Respondent will not receive credit for gratuities and/or inducements for volunteers.

The Respondent shall perform this project in accordance with all federal, state and local environmental laws and regulations, including compliance with any requirements to obtain permits or authorizations.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing both erosion and downstream flooding. Erosion and siltation can do two things to increase waterway pollution: 1) divert water flows, initiating further erosion downstream; and 2) pollute waterways with turbid silt. The grasses to be planted along the dam area will assist in holding the soil in place without significantly impeding the flow of the water. Continued erosion leads to high sediment loads in waterways, silting, and disruption of ecosystems.

C. Minimum Expenditure

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

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin implementation of the project. The Respondent shall complete the project within 365 days after the effective date of this Agreed Order and provide a final report in accordance with Item 3.B., below.

3. Reporting

A. Progress Reports

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

B. Final Report

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

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;
4. Map showing specific location of area addressed;
5. Photographs of the project showing the project area before commencement and after the project is complete);
6. Documentation of posting of signs; and
7. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

C. Address

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

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

4. Additional Information and Access

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

5. Failure to Fully Perform

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

In the event of incomplete performance, with the payment, the Respondent shall include the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The payment for any amount due if the SEP is not completed shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

6. Publicity

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

7. Clean Texas Program

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

8. Other SEPs by TCEQ or Other Agencies

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