

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2005-0264-MWD-E TCEQ ID: RN101916617 CASE NO.: 24509**  
**RESPONDENT NAME: CITY OF LA COSTE**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 11311 Lytle La Coste Road, La Coste, Medina County</p> <p><b>TYPE OF OPERATION:</b> municipal wastewater treatment facility</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on February 25, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney:</b> Mr. Robert Mosley, Litigation Division, MC 175, (512) 239-0627  Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873  <b>SEP Coordinator:</b> Ms. Sharon Blue, Litigation Division, MC 175 (512) 239-2223  <b>TCEQ Enforcement Coordinator:</b> Ms. Rebecca Clausewitz, Enforcement Division, MC R-13, (210) 403-4012  <b>TCEQ Regional Contact:</b> Mr. Tom Haberle, San Antonio Regional Office, MC R-13, (210) 490-3096  <b>Respondent:</b> Mr. Reggie Winters, City Administrator, City of La Coste, P.O. Box 112, La Coste, Texas 78039  <b>Respondent's Attorney:</b> Mr. Chris Schuchart, P.C. Attorney at Law, 808 London, #1, P.O. Box 1569, Castroville, Texas 78009</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaints Relating to this Case:</b> None</p> <p><b>Dates of Investigation Relating to this Case:</b> September 24 &amp; 27th, 2004 (Investigations), November 17, 2004 (Record Review)</p> <p><b>Date of NOE Relating to this Case:</b> August 12, 2005</p> <p><b>Background Facts:</b> An EDPRP was filed August 16, 2005. The Respondent signed an Agreed Order on November 20, 2007.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p><b>MWD-E:</b></p> <p>1. Failed to comply with the permitted effluent limit for ammonia nitrogen at Outfall 001 [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1) and TPDES Permit No. 10889-001, Effluent Limitations and Monitoring Requirement 1].</p> <p>2. Failed to comply with the permitted effluent limit for dissolved oxygen at Outfall 001. Specifically, the City failed to meet the monthly minimum of 4.0 mg/L for dissolved oxygen when it reported 1.08 mg/L for the month of March 2004 [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1) and TPDES Permit No. 10889-001, Effluent Limitations and Monitoring Requirement 6].</p> <p>3. Failed by causing, suffering, allowing and permitting the discharge of waste without Commission authorization. Specifically, the City suffered and allowed the wash-down waste liquid from a nearby facility's grease and grit trap sludge roll-off containers to be discharged into an un-permitted earthen holding pond at the Facility [TEX. WATER CODE § 26.121(c)].</p>	<p><b>Total Assessed:</b> \$8,120</p> <p><b>Total Deferred:</b> \$0</p> <p><b>SEP Conditional Offset:</b> \$8,120</p> <p><b>Total Paid to General Revenue:</b> \$0</p> <p>The penalty amount of \$8,120 shall be implemented in a Supplemental Environmental Project (SEP).</p> <p><b>Site Compliance History Classification</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Order Criteria:</b> Environmental receptors have been exposed to pollutants which exceed levels that are protective.</p>	<p><b>Ordering Provisions:</b> The Order will require the Respondent to implement and complete a Supplemental Environmental Project (see Attachment A).</p> <p><b>Corrective Action(s) Taken:</b> The Executive Director recognizes that the City has implemented the following corrective measures at the Facility:</p> <p>1. In April 2004, the City began meeting all minimum concentration limits for dissolved oxygen at Outfall 001, as required by TPDES Permit No. 10889-001, effluent Limitations and Monitoring Requirement 6.</p> <p>2. On October 6, 2004, the City ceased all unauthorized discharges of ammonia nitrogen limits in TPDES Permit No. 10889-001, Effluent Limitations and Monitoring Requirement 1.</p> <p>3. On October 16, 2004, the City supervised the completion of a concrete guttering system and a 1,500 gallon enclosed concrete holding tank that retains all industrial wastewater, including all wash-down liquid from grit and grease trap sludge containers. The wash-down liquid in the concrete holding pond is evacuated by a pump truck, thus alleviating the need for a permit for the discharge of industrial wastewater.</p>



Policy Revision 2 (September 2002)

# Penalty Calculation Worksheet (PCW)

PCW Revision December 10, 2004

<b>DATES</b>	Assigned	10-Jan-2005	Screening	14-Jan-2005	Priority Due	11-Mar-2005	EPA Due	
	PCW	11-Feb-2005						

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	City of La Coste
Reg. Ent. Ref. No.	RN101916617
Additional ID No(s).	Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10889-001
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor Source

<b>CASE INFORMATION</b>			
Enf./Case ID No.	24509	No. of Violations	3
Docket No.	2005-0264-MWD-E	Order Type	Findings
Case Priority	2	Enf. Coordinator	Rebecca Clausewitz
Media Program(s)	Water Quality	EC's Team	Enforcement Team 7
Multi-Media			
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$7,000</b>
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	41% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$2,870</b>
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Notes: The penalty enhancement is due to seven prior NOVs for violations that are the same as or similar to the violations in the current enforcement action and for three prior NOVs for violations that are dissimilar to those in the current enforcement action.

<b>Culpability</b>	No	0% Enhancement	<b>Subtotal 4</b>	<b>\$0</b>
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Notes: This Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	25% Reduction	<b>Subtotal 5</b>	<b>\$1,750</b>
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	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with a small x)

Notes: The City of La Coste achieved compliance with all violations as of October 16, 2004.

<b>Economic Benefit</b>	0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts	\$11,092	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$21,000	

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$8,120</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>		<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

<b>Final Penalty Amount</b>	<b>\$8,120</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$8,120</b>
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<b>DEFERRAL</b>		<b>Reduction</b>	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: A deferral is not offered with a findings order.

<b>PAYABLE PENALTY</b>	<b>\$8,120</b>
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<b>Screening Date</b>	14-Jan-2005	<b>Docket No.</b>	2005-0264-MWD-E	<b>PCW</b>
<b>Respondent</b>	City of La Coste			<i>Policy Revision 2 (September 2002)</i>
<b>Case ID No.</b>	24509			<i>PCW Revision December 10, 2004</i>
<b>Reg. Ent. Reference No.</b>	RN101916617			
<b>Additional ID No(s)</b>	Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10889-001			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	Rebecca Clausewitz			
<b>Site Address</b>	11311 Lytle La Coste Road, La Coste, Medina County, Texas 78039			

**Compliance History Worksheet**

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	7	35%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2) 41%**

>> **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 penalty enhancement is due to seven prior NOV's for violations that are the same as or similar to the violations in the current enforcement action and for three prior NOV's for violations that are dissimilar to those in the current enforcement action.

**Total Adjustment Percentage (Subtotals 2, 3, & 7) 41%**

<b>Screening Date</b>	14-Jan-2005	<b>Docket No.</b>	2005-0264-MWD-E	<b>PCW</b>
<b>Respondent</b>	City of La Coste	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b>	24509	<i>PCW Revision December 10, 2004</i>		
<b>Reg. Ent. Reference No.</b>	RN101916617			
<b>Additional ID No(s)</b>	Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10889-001			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	Rebecca Clausewitz			
<b>Violation Number</b>	1			
<b>Primary Rule Cite(s)</b>	30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 10889-001, Effluent Limitations and Monitoring Requirement 1			
<b>Secondary Rule Cite(s)</b>	Tex. Water Code § 26.121(a)(1)			
<b>Violation Description</b>	Failure to comply with the permitted effluent limit for ammonia nitrogen at Outfall 001, which resulted in a fish kill on Polecat Creek in the San Antonio River Basin observed during an investigation conducted on September 24, 2004. Specifically, the City of La Coste exceeded the ammonia nitrogen single grab limit of 15 mg/L on September 24, 2004 when a grab sample measured 280 mg/L.			
<b>Base Penalty</b>			\$10,000	

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

OR	<b>Harm</b>				
	<b>Release</b>	Major	Moderate	Minor	
	Actual	X			
Potential				<b>Percent</b> <input type="text" value="50%"/>	

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	
					<b>Percent</b> <input type="text"/>

**Matrix Notes**  
 As a result of the violation, human health and the environment have been exposed to pollutants which exceed levels that are protective of human health and environmental receptors.

**Adjustment**

**Base Penalty Subtotal**

**Violation Events**

Number of Violation Events

<i>mark only one use a small x</i>	<i>daily</i>	<input type="text"/>
	<i>monthly</i>	<input type="text"/>
	<i>quarterly</i>	<input type="text"/>
	<i>semiannual</i>	<input type="text"/>
	<i>annual</i>	<input type="text"/>
	<i>single event</i>	<input checked="" type="text" value="X"/>

**Violation Base Penalty**

One single event is recommended based on the September 24, 2004 investigation that documented exceedances of the ammonia nitrogen single grab limit.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
Estimated EB Amount <input type="text" value="\$10,000"/>	Violation Final Penalty Total <input type="text" value="\$5,800"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b> <input type="text" value="\$5,800"/>	

**Economic Benefit Worksheet**

Respondent: City of La Coste  
 Case ID No. 24509  
 Reg. Ent. Reference No. RN101916617  
 Additional ID No(s). Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10889-001  
 Media [Statute] Water Quality  
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: There are no delayed costs associated with this violation.

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]	\$10,000	24-Sep-2004	06-Oct-2004	0.0	\$0	\$10,000	\$10,000
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs: The avoided costs include the amount required for additional sampling and oversight that might have reduced or alleviated the exceedances, calculated from the date of investigation to the date that additional sampling demonstrated that the effluent being discharged from the facility was no longer exceeding the permit limits for ammonia nitrogen.

Approx. Cost of Compliance

**TOTAL**

<b>Screening Date</b>	14-Jan-2005	<b>Docket No.</b>	2005-0264-MWD-E	<b>PCW</b>
<b>Respondent</b>	City of La Coste	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b>	24509	<i>PCW Revision December 10, 2004</i>		
<b>Reg. Ent. Reference No.</b>	RN101916617			
<b>Additional ID No(s)</b>	Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10889-001			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	Rebecca Clausewitz			
<b>Violation Number</b>	2			
<b>Primary Rule Cite(s)</b>	30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. 10889-001, Effluent Limitations and Monitoring Requirement 6			
<b>Secondary Rule Cite(s)</b>	Tex. Water Code § 26.121(a)(1)			
<b>Violation Description</b>	Failure to comply with the permitted effluent limits for dissolved oxygen at Outfall 001. Specifically, the City of La Coste failed to meet the monthly minimum of 4.0 mg/L for dissolved oxygen when it reported 1.08 mg/L for the month of March 2004.			
<b>Base Penalty</b>				\$10,000

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

OR	<b>Harm</b>			Percent	
	<b>Release</b>	Major	Moderate		Minor
	Actual				X
	Potential				

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent

**Matrix Notes**  
 As a result of this violation, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.

**Adjustment** -\$9,000

**Base Penalty Subtotal** \$1,000

**Violation Events**

**Number of Violation Events** 1

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

**Violation Base Penalty** \$1,000

One quarterly event is recommended for the quarter in which the effluent violation was reported -- March 2004.

<b>Economic Benefit (EB) for this violation</b>	<b>Statutory Limit Test</b>
<b>Estimated EB Amount</b> \$1,050	<b>Violation Final Penalty Total</b> \$1,160
<b>This violation Final Assessed Penalty (adjusted for limits)</b> \$1,160	

### Economic Benefit Worksheet

Respondent: City of La Coste  
 Case ID No: 24509  
 Reg. Ent. Reference No: RN101916617  
 Additional ID No(s): Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10889-001  
 Media [Statute]: Water Quality  
 Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs: There are no delayed costs associated with this violation.

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]	\$1,000	01-Mar-2004	31-Mar-2004	1.0	\$50	\$1,000	\$1,050
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs: The avoided cost includes the amount of additional oversight and testing that could have reduced or alleviated the dissolved oxygen violation, calculated for the month when the DO did not meet the minimum threshold.

Approx. Cost of Compliance: \$1,000

TOTAL: \$1,050

<b>Screening Date</b>	14-Jan-2005	<b>Docket No.</b>	2005-0264-MWD-E	<b>PCW</b>
<b>Respondent</b>	City of La Coste	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.</b>	24509	<i>PCW Revision December 10, 2004</i>		
<b>Reg. Ent. Reference No.</b>	RN101916617			
<b>Additional ID No(s).</b>	Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10889-001			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	Rebecca Clausewitz			
<b>Violation Number</b>	<input type="text" value="3"/>			
<b>Primary Rule Cite(s)</b>	<input type="text" value="Tex. Water Code § 26.121(c)"/>			
<b>Secondary Rule Cite(s)</b>	<input type="text"/>			
<b>Violation Description</b>	<p>Caused, suffered, allowed, and permitted the discharge of waste without Commission authorization. Specially, La Coste suffered and allowed the wash-down waste liquid from a nearby facility's grease and grit trap sludge roll-off containers to be discharged into an unpermitted earthen holding pond at the Facility.</p>			
<b>Base Penalty</b>	<input type="text" value="\$10,000"/>			

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

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

>> **Programmatic Matrix**

		Falsification	Major	Moderate	Minor	
		<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="10%"/>

Matrix Notes

**Adjustment**

**Base Penalty Subtotal**

**Violation Events**

Number of Violation Events

mark only one use a small x	daily	<input type="text"/>
	monthly	<input type="text"/>
	quarterly	<input type="text"/>
	semiannual	<input type="text"/>
	annual	<input type="text"/>
	single event	<input checked="" type="checkbox"/>

**Violation Base Penalty**

One single event is recommended for the Respondent's one-time failure to obtain Commission authorization for the discharging of the wash-down waste, as documented during an investigation conducted on September 27, 2004.

**Economic Benefit (EB) for this violation**      **Statutory Limit Test**

<b>Estimated EB Amount</b>	<input type="text" value="\$42"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$1,160"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$1,160"/>	

### Economic Benefit Worksheet

**Respondent:** City of La Coste  
**Case ID No.:** 24509  
**Reg. Ent. Reference No.:** RN101916617  
**Additional ID No(s):** Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10889-001  
**Media [Statute]:** Water Quality  
**Violation No.:** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$10,000	24-Sep-2004	16-Oct-2004	0.1	\$2	\$40	\$42
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:** The delayed construction costs include the amount to construct a concrete guttering system and concrete holding tank that prevents the unauthorized discharges of wash water from the sludge roll-off containers, calculated from the date of the investigation to the date the guttering system was completed.

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:** There are no avoided costs associated with this violation.

Approx. Cost of Compliance \$10,000

TOTAL \$42

# Compliance History

Customer/Respondent/Owner-Operator: CN600655179 City of La Coste Classification: AVERAGE Rating: 0.190  
Regulated Entity: RN101916617 CITY OF LA COSTE Classification: AVERAGE Site Rating: 0.57  
ID Number(s): WASTEWATER LICENSING LICENSE WQ0010889001  
WASTEWATER PERMIT TPDES0107743  
WASTEWATER PERMIT WQ0010889001  
Location: 11311 LYTTLE LA COSTE RD, LA COSTE, TX, 78039 Rating Date: 9/1/04 Repeat Violator: NO  
TCEQ Region: REGION 13 - SAN ANTONIO  
Date Compliance History Prepared: February 11, 2005  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: February 10, 2000 to February 10, 2005  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Rebecca Clausewitz Phone: (210) 403-4012

## Site Compliance History Components

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

## 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.)

09/12/2000 (247567)  
06/11/2001 (150195)  
02/03/2003 (225640)  
01/22/2002 (225639)  
02/06/2001 (225638)  
01/14/2002 (225637)  
12/02/2002 (225636)  
11/26/2001 (225635)  
10/25/2002 (225634)  
10/22/2001 (225633)  
10/04/2002 (225632)  
09/25/2001 (225631)  
08/28/2002 (225630)  
08/21/2000 (225629)  
08/14/2002 (225628)  
07/24/2001 (225627)  
07/24/2000 (225626)

06/24/2002 (225625)  
06/20/2000 (225624)  
05/22/2002 (225623)  
06/04/2001 (225622)  
05/19/2000 (225621)  
04/15/2003 (225620)  
04/23/2002 (225619)  
04/20/2001 (225618)  
03/25/2002 (225617)  
04/11/2002 (225616)  
02/12/2003 (225615)  
02/25/2002 (225614)  
01/06/2005 (339592)  
09/03/2003 (152884)  
02/13/2004 (323666)  
03/30/2004 (323667)  
05/22/2003 (323668)  
06/18/2003 (323669)  
10/09/2003 (323670)  
09/10/2003 (323671)  
10/27/2004 (339007)  
10/09/2003 (323672)  
01/02/2004 (323673)  
01/02/2004 (323674)  
06/29/2004 (323675)  
01/08/2004 (323676)  
01/28/2004 (323677)  
06/03/2003 (31038)

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

Date: 09/12/2000 (247567)  
Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 09/30/2001 (225633)  
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: 07/31/2000 (225629)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2000 (225624)  
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: 04/30/2000 (225621)  
Self Report? YES Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
TWC Chapter 26 26.121(a)[G]  
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2003 (225617)  
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: 03/31/2004  
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: 06/11/2001  
Self Report? NO Classification: Moderate  
Citation: TWC Chapter 26 26.121(a)[G]

Rqmt Prov. PERMIT IA  
Description: Allowed a private individual to use wastewater plant effluent for irrigation without first amending the permit

Self Report? NO Classification: Moderate  
Rqmt Prov. PERMIT IA

Description: Failure to properly maintain all parts of the facility  
Self Report? NO Classification: Moderate

Rqmt Prov. PERMIT IA  
Description: Failure to properly calibrate the chlorine meter

Date: 06/04/2003 (31038) Classification: Moderate

Self Report? NO  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: PERMIT IA  
Description: Failure to meet the single grab TSS permit limitation of 60 mg/l during the investigation

Self Report? NO Classification: Minor  
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 the annual sludge summary as required by permit.

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 317 317.4(a)(8)  
Description: Failure to have an approved backflow prevention device on the potable water supply

Date: 07/14/2000 Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
Rqmt Prov: PERMIT IA  
Description: Failure to conduct the chlorine residuals at the correct time intervals

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)  
Rqmt Prov: PERMIT IA  
Description: Failure to maintain accurate monitoring logbooks and calibration records on the monitoring equipment

Self Report? NO Classification: Moderate  
Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)  
Rqmt Prov: PERMIT IA  
Description: Failure to maintain the sludge drying beds such that they are not overgrown with vegetation.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF LA COSTE;  
RN101916617

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2005-0264-MWD-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of La Coste ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and the City, represented by Chris Schuchart of the law firm of Chris Schuchart, P.C., presented this agreement to the Commission.

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

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

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

**FINDINGS OF FACT**

1. The City owns and operates a municipal wastewater treatment facility at 11311 Lytle La Coste Road, La Coste, Medina County, Texas ("the Facility").
2. The Facility has discharged waste into or adjacent to any water in the state or has committed another act that has caused or will cause pollution of any water in the state under the Texas Water Code.

3. During an investigation conducted on September 24, 2004, a TCEQ San Antonio Regional Office investigator documented that the City failed to comply with the permitted effluent limit for ammonia nitrogen at Outfall 001. Specifically, the City exceeded the ammonia nitrogen single grab limit of 15 milligrams per liter ("mg/L") on September 24, 2004 when a grab sample measured 280 mg/L of ammonium nitrogen.
4. During a record review conducted on November 17, 2004, a TCEQ San Antonio Regional Office investigator documented that the City failed to comply with the permitted effluent limits for dissolved oxygen at Outfall 001. Specifically, the City failed to meet the monthly minimum of 4.0 mg/L for dissolved oxygen when it reported 1.08 mg/L for the month of March 2004.
5. During an investigation conducted on September 27, 2004, a TCEQ San Antonio Regional Office investigator documented that the City caused, suffered, allowed and permitted the discharge of any waste without Commission authorization. Specifically, the City suffered and allowed the wash-down waste liquid from a nearby facility's grease and grit trap sludge roll-off containers to be discharged into an unpermitted earthen holding pond at the Facility.
6. The City received notice of the violations on August 17, 2005.
7. The Executive Director recognizes that the City has implemented the following corrective measures at the Facility in response to this enforcement action:
  - a. In April 2004, the City began meeting all minimum concentration limits for dissolved oxygen at Outfall 001, as required by TPDES Permit No. 10889-001, Effluent Limitations and Monitoring Requirement 6;
  - b. On October 6, 2004, the City ceased all unauthorized discharges of ammonia nitrogen at Outfall 001 and achieved compliance with the ammonia nitrogen limits in TPDES Permit No. 10889-001, Effluent Limitations and Monitoring Requirement 1; and
  - c. On October 16, 2004, the City supervised the completion of a concrete guttering system and a 1,500 gallon enclosed concrete holding tank that retains all industrial wastewater, including all wash-down liquid from grit and grease trap sludge containers. The wash-down liquid in the concrete holding pond is evacuated by a pump truck, thus alleviating the need for a permit for the discharge of industrial wastewater.

**CONCLUSIONS OF LAW**

1. As evidenced by Finding of Fact Nos. 1 and 2, the City is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE § 7.002 and ch. 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, the City failed to comply with the permitted effluent limit for ammonia nitrogen at Outfall 001 in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1) and TPDES Permit No. 10889-001, Effluent Limitations and Monitoring Requirement 1.
3. As evidenced by Finding of Fact No. 4, the City failed to comply with the permitted effluent limit for dissolved oxygen at Outfall 001. Specifically, the City failed to meet the monthly minimum of 4.0 mg/L for dissolved oxygen when it reported 1.08 mg/L for the month of March 2004, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a)(1) and TPDES Permit No. 10889-001, Effluent Limitations and Monitoring Requirement 6.
4. As evidenced by Finding of Fact No. 5, the City caused, suffered, allowed and permitted the discharge of waste without Commission authorization. Specifically, the City suffered and allowed the wash-down waste liquid from a nearby facility's grease and grit trap sludge roll-off containers to be discharged into an unpermitted earthen holding pond at the Facility, in violation of TEX. WATER CODE § 26.121(c).
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of eight thousand one hundred twenty dollars (\$8,120.00) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Eight thousand one hundred twenty dollars (\$8,120.00) of the administrative penalty shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP") as defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

### ORDERING PROVISIONS

1. The City is assessed an administrative penalty in the amount of eight thousand one hundred twenty dollars (\$8,120.00) as set forth in Conclusion of Law No. 6 for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here.
2. The City shall implement and complete a Supplemental Environmental Project in accordance with TEX. WATER CODE § 7.067. Eight thousand one hundred twenty dollars (\$8,120.00) of the assessed penalty shall be offset with the condition that the City implement the SEP defined in Attachment A. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
5. 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.
6. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

8. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

Benjamin Perdue

For the Executive Director

2/3/08

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of City of La Coste. I represent that I am authorized to agree to the attached Agreed Order on behalf of City of La Coste, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

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

- A negative impact on City of La Coste's compliance history;
- Greater scrutiny of any permit applications submitted by City of La Coste;
- 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 City of La Coste;
- Automatic referral to the Attorney General's Office of any future enforcement actions against City of La Coste; and
- TCEQ seeking other relief as authorized by law.

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

Henry A. Seay Jr.  
Signature

November 20, 2007  
Date

Henry Seay Jr  
Name (printed or typed)  
Authorized Representative  
City of La Coste

Mayor  
Title

Attachment A

Docket Number: 2005-0264-MWD-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	City of La Coste
<b>Penalty Amount:</b>	Eight Thousand One Hundred Twenty Dollars (\$8,120)
<b>SEP Amount:</b>	Eight Thousand One Hundred Twenty Dollars (\$8,120)
<b>Type of SEP:</b>	Pre-approved
<b>Third-Party Recipient:</b>	Texas State University River Systems Institute <i>Continuous Water Quality Monitoring Network</i>
<b>Location of SEP:</b>	Medina County

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

**1. Project Description**

A. Project

The Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Texas State University River Systems Institute *Continuous Water Quality Monitoring Network* and the TCEQ. Specifically, SEP monies will be used by the Recipient to install and/or support a continuous monitoring station that will collect water quality data every fifteen (15) minutes and report data to the TCEQ LEADS system every hour using cellular telemetry. The following water quality parameters will be measured: dissolved oxygen, temperature, specific conductance, pH, turbidity, and water level.

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 providing a “real time” monitoring station that will provide the public and other entities with instantaneous information about the quality of the Medina River in Segment 1903 of the Upper San Antonio River Basin. This data will assist in determining baseline conditions, long-term trend monitoring, water quality associated with storm water events, and potentially monitor for accidental spills and releases. This station will provide additional data to support existing work in this area.

C. Minimum Expenditure

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

**2. Performance Schedule**

Within 180 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas State University - San Marcos  
Attention: Dr. Glenn Longley, Ph.D., Professor of Aquatic Biology &  
Director of Edwards Aquifer Research and Data Center  
601 University Drive JCK 420  
San Marcos, Texas 78666

**3. Records and Reporting**

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

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

**4. Failure to Fully Perform**

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

In the event of incomplete performance, the Respondent shall submit a check for any amount due made out to "Texas Commission on Environmental Quality" and mail it to:

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

**5. Publicity**

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

**6. Clean Texas Program**

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

**7. Other SEPs by TCEQ or Other Agencies**

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government; provided, however, that the Respondent may make contributions to the Texas State University River Systems Institute Continuous Water Quality Monitoring Network in excess of the SEP Amount pursuant to other agreements.