EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1519-MWD-E **TCEQ ID:** RN102328564 **CASE NO.:** 34675

RESPONDENT NAME: Rayburn Country Municipal Utility District

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: Rayburn Country MUD, located approximately 2,000 feet north of the intersection of Recreational Road 255 and Farm-to-Market Road 1007 and 3 miles west of the intersection of United States Highway 96 and Recreational Road 255, Jasper County

TYPE OF OPERATION: Municipal wastewater treatment system

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 March 10, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768
TCEQ Enforcement Coordinator: Mr. Andrew Hunt, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-1203; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171
Respondent: Mr. Donald Price, Director, Rayburn Country Municipal Utility District, P.O. Box 5060, Sam Rayburn, Texas 75951
Mr. Arthur Shepard, President, Rayburn Country Municipal Utility District, P.O. Box 5060, Sam Rayburn, Texas 75951
Respondent's Attorney: Not represented by counsel on this enforcement matter

RESPONDENT NAME: Rayburn Country Municipal Utility District
DOCKET NO.: 2007-1519-MWD-E

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:** August 14, 2007 **Date of NOV/NOE Relating to this Case:** September 7, 2007 (NOE) **Background Facts:** This was a routine record review. **WATER** 1) Failed to comply with the permitted effluent limitations of 38 pounds per day ("lbs/day") and 15 milligrams per liter ("mg/L") for total suspended solids ("TSS"). Specifically, the TSS daily average loading in October 2006 was 77.9 lbs/day and the TSS daily average concentrations were 24.5 mg/L in October 2006, 22.8 mg/L in January 2007, and 25.6 mg/L in February 2007 [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010788001, Effluent Limitations and Monitoring Requirements No. 1]. 2) Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2006 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010788001, Sludge Provisions].	**Total Assessed:** $4,410 **Total Deferred:** $882 X Expedited Settlement __Financial Inability to Pay . **SEP Conditional Offset:** $3,528 **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:** The Executive Director recognizes that on September 26, 2007, the Respondent submitted the annual sludge report for the monitoring period ending July 31, 2006. **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 permitted effluent limitations of TPDES Permit No. WQ0010788001. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.

Additional ID No(s).: WQ0010788001

Attachment A
Docket Number: 2007-1519-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Rayburn Country Municipal Utility District**
Payable Penalty Amount:	**Three Thousand Five Hundred Twenty-Eight Dollars ($3,528)**
SEP Amount:	**Three Thousand Five Hundred Twenty-Eight Dollars ($3,528)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Wastewater Treatment Assistance**
Location of SEP:	**Jasper County**

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

1. Project Description

A. Project

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

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems

C. Minimum Expenditure

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

2. Performance Schedule

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

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

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

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

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision September 19, 2007*

TCEQ

DATES					
Assigned	17-Sep-2007				
PCW	21-Sep-2007	Screening	21-Sep-2007	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	Rayburn Country Municipal Utility District		
Reg. Ent. Ref. No.	RN102328564		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	34675	No. of Violations	2
Docket No.	2007-1519-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Andrew Hunt
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* **$2,100**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 110% Enhancement — *Subtotals 2, 3, & 7* **$2,310**

Notes: The penalty is enhanced because the Respondent has one 1660 order, has received one NOV with violations same or similar to those cited in this action, and self-reported 17 months of effluent violations.

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	$562
Approx. Cost of Compliance	$5,100

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$4,410**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$4,410**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$4,410**

DEFERRAL — 20% Reduction — *Adjustment* **-$882**

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

Notes: Defferal offered for expedited settlement

PAYABLE PENALTY **$3,528**

Screening Date 21-Sep-2007 **Docket No.** 2007-1519-MWD-E **PCW**

Respondent Rayburn Country Municipal Utility District

Policy Revision 2 (September 2002)

Case ID No. 34675

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN102328564

Media [Statute] Water Quality

Enf. Coordinator Andrew Hunt

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	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	1	20%
	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) 110%

>> 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 is enhanced because the Respondent has one 1660 order, has received one NOV with violations same or similar to those cited in this action, and self-reported 17 months of effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 110%

Screening Date 21-Sep-2007 **Docket No.** 2007-1519-MWD-E **PCW**

Respondent Rayburn Country Municipal Utility District

Policy Revision 2 (September 2002)

Case ID No. 34675

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN102328564

Media [Statute] Water Quality

Enf. Coordinator Andrew Hunt

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010788001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with the permitted effluent limitations of 38 pounds per day ("lbs/day") and 15 milligrams per liter ("mg/L") for total suspended solids ("TSS"), as documented during a record review conducted on August 14, 2007. Specifically, the TSS daily average loading in October 2006 was 77.9 lbs/day and the TSS daily average concentrations were 24.5 mg/L in October 2006, 22.8 mg/L in January 2007, and 25.6 mg/L in February 2007.

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: 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 2

90 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $2,000

Two quarterly events are recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $554

Statutory Limit Test

Violation Final Penalty Total $4,200

This violation Final Assessed Penalty (adjusted for limits) $4,200

Economic Benefit Worksheet

Respondent Rayburn Country Municipal Utility District
Case ID No. 34675
Reg. Ent. Reference No. RN102328564
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description	No commas or $						
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction	$5,000	31-Oct-2006	31-May-2008	1.6	$26	$528	$554
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 evaluate the cause of the effluent violations. Date required is the first month of noncompliance. 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 $5,000

TOTAL $554

Screening Date 21-Sep-2007 **Docket No.** 2007-1519-MWD-E **PCW**

Respondent Rayburn Country Municipal Utility District *Policy Revision 2 (September 2002)*

Case ID No. 34675 *PCW Revision September 19, 2007*

Reg. Ent. Reference No. RN102328564

Media [Statute] Water Quality

Enf. Coordinator Andrew Hunt

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0010788001, Sludge Provisions

Violation Description Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2006.

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: 70% of the permit requirement was met.

Adjustment $9,900

$100

Violation Events

Number of Violation Events 1

385 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

One single event is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $7

Statutory Limit Test

Violation Final Penalty Total $210

This violation Final Assessed Penalty (adjusted for limits) $210

Economic Benefit Worksheet

Respondent Rayburn Country Municipal Utility District
Case ID No. 34675
Reg. Ent. Reference No. RN102328564
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)	$100	1-Sep-2006	26-Sep-2007	1.1	$0	$7	$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 prepare and submit the annual sludge report. Date required is the date the report was due. Final date is the date the report was submitted.

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: $100

TOTAL: $7

Compliance History

Customer/Respondent/Owner-Operator:	CN600656581 Rayburn Country Municipal Utility District Classification: AVERAGE Rating: 3.47
Regulated Entity:	RN102328564 RAYBURN COUNTRY MUD Classification: AVERAGE Site Rating: 3.47
ID Number(s):	WASTEWATER PERMIT WQ0010788001 WASTEWATER PERMIT TPDES0023701 WASTEWATER PERMIT TX0023701 WASTEWATER LICENSING LICENSE WQ0010788001
Location:	located approximately 2,000 feet north of the intersection of Recreational Road 255 and Farm-to-Market Road 1007 and 3 miles west of the intersection of U.S. Highway 96 and Recreational Road 255 in Jasper County, Texas Rating Date: September 01 07 Repeat Violator: NO
TCEQ Region:	REGION 10 - BEAUMONT
Date Compliance History Prepared:	September 18, 2007
Agency Decision Requiring Compliance History:	Enforcement
Compliance Period:	September 18, 2002 to September 18, 2007

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

Name: Andrew Hunt 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.

Effective Date: 01/26/2006 ADMINORDER 2003-1296-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: 10788-001 OP

10788-001 PERMIT

Description: Failure to comply with the permit limit for effluents for TPDES Permit No. 10788-001.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

30 TAC Chapter 317 317.3[G]

Rqmt Prov: 10788 PERMIT

10788-001 OP

Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Classification: Minor

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

Rqmt Prov: 10788-001 OP

10788-001 PERMIT

Description: Failure to comply with test procedures for the analysis as specified in 30 TAC 319.11 through 319.12, and to include additional pH and dissolved oxygen measurements in the calculation of self-reported data.

Classification: Moderate

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

30 TAC Chapter 305, SubChapter F 305.125(18)

Rqmt Prov: 10788-001 OP

10788-001 PERMIT

Description: Failure to report 40% noncompliances to the TCEQ within the required notification period.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of Investigations. (CCEDS Inv. Track. No.)

1 10/17/2002 (168301)
2 11/18/2002 (168303)
3 12/20/2002 (168305)
4 01/15/2003 (168307)
5 02/28/2003 (168284)
6 03/14/2003 (168286)
7 04/16/2003 (168289)
8 05/19/2003 (299645)
9 06/11/2003 (299646)
10 06/12/2003 (62436)
11 07/14/2003 (299647)
12 08/25/2003 (299648)
13 09/17/2003 (299650)
14 10/09/2003 (299651)
15 10/16/2003 (252376)
16 11/20/2003 (299652)
17 12/11/2003 (299653)
18 01/20/2004 (299654)
19 02/23/2004 (299642)
20 04/14/2004 (299643)
21 04/19/2004 (299644)
22 05/17/2004 (353859)
23 06/24/2004 (353860)
24 07/08/2004 (274566)
25 07/19/2004 (353861)
26 08/25/2004 (353862)
27 09/16/2004 (353863)
28 11/15/2004 (382827)
29 01/06/2005 (382828)
30 01/20/2005 (382829)
31 01/21/2005 (382825)
32 03/17/2005 (382826)
33 04/22/2005 (420632)
34 05/18/2005 (420633)
35 06/16/2005 (420634)
36 07/21/2005 (420635)
37 10/03/2005 (470059)
38 11/04/2005 (470060)
39 12/07/2005 (470061)
40 01/20/2006 (470062)
41 01/20/2006 (470063)
42 02/21/2006 (470057)
43 03/24/2006 (470058)
44 04/04/2006 (454839)
45 04/24/2006 (499224)
46 05/18/2006 (499225)
47 06/16/2006 (499226)
48 07/13/2006 (521263)
49 08/14/2006 (521264)
50 09/25/2006 (521265)
51 11/03/2006 (545779)
52 11/16/2006 (545780)
53 12/18/2006 (545781)
54 01/29/2007 (545782)
55 03/05/2007 (577597)
56 04/10/2007 (577598)
57 04/18/2007 (577599)
58 06/07/2007 (577600)
59 06/29/2007 (577601)
60 09/10/2007 (572239)

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

Date: 12/31/2002 (168307)

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: 01/31/2003 (168284)

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 (168286)

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: 03/31/2003 (168289)

Self Report? YES Classification: Moderate

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

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

Date: 11/30/2003 (299653)

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: 02/29/2004 (299643)

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 (299644)

Self Report? YES Classification: Moderate

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

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

Date: 11/30/2004 (382828)

Self Report? YES Classification: Moderate

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

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

Date: 12/31/2004 (382829)

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: 02/28/2005 (382826)

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: 06/30/2005 (420635)

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: 09/30/2005 (470060)

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: 02/28/2006 (470058)

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: 04/04/2006 (454839)

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT OpR 1

Description: Failure by Rayburn Country MUD to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT OpR 1

Description: Failure by Rayburn Country MUD to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT OpR1

Description: Failure by Rayburn Country MUD to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT EL&MR 4

Description: Failure by Rayburn Country MUD to prevent the discharge of pollutants into the receiving stream.

Self Report? NO Classification: Moderate

Rqmt Prov: PERMIT M&RR 7c

Description: Failure by Rayburn Country MUD to notify the TCEQ Region 10 Office and the Manager of the Enforcement Section III (MC 149) of the Enforcement Division, within the required notification period, for each effluent violation which deviated from the permitted effluent limitation by more than 40%.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT M&RR 1
PERMIT PC 1a

Description: Failure by Rayburn Country MUD to accurately complete the discharge monitoring reports (DMRs) and have them readily available for review at the time of the investigation.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT M&RR 5

Description: Failure by the permittee to have the secondary flow measuring device calibrated at least annually or as often as necessary to ensure accuracy.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT OpR 1

Description: Failure by Rayburn Country MUD to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor

Rqmt Prov: PERMIT OpR 1

Description: Failure by Rayburn Country MUD to properly manage the solids inventory in the WWTP.

Self Report? NO Classification: Moderate

Rqmt Prov: PERMIT EL&MR 1

Description: Failure by the permittee to discharge effluent that is compliant with permitted

limitations.

Date: 10/31/2006 (545780)

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 (577597)

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 (577598)

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: 05/31/2007 (577601)

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 ENFORCEMENT ACTION CONCERNING RAYBURN COUNTRY MUNICIPAL UTILITY DISTRICT RN102328564	§ § § § § §	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2007-1519-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 Rayburn Country Municipal Utility District ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a municipal wastewater treatment system located approximately 2,000 feet north of the intersection of Recreational Road 255 and Farm-to-Market Road 1007 and three miles west of the intersection of United States Highway 96 and Recreational Road 255 in Jasper County, Texas (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.

3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.

4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 12, 2007.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Four Thousand Four Hundred Ten Dollars ($4,410) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Eight Hundred Eighty-Two Dollars ($882) is deferred contingent upon the Respondent'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 Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Three Thousand Five Hundred Twenty-Eight Dollars ($3,528) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

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 Respondent 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 on September 26, 2007, the Respondent submitted the annual sludge report for the monitoring period ending July 31, 2006.

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 Respondent 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 Respondent is alleged to have:

1. Failed to comply with the permitted effluent limitations of 38 pounds per day ("lbs/day") and 15 milligrams per liter ("mg/L") for total suspended solids ("TSS"), 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. WQ0010788001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on August 14, 2007. Specifically, the TSS daily average loading in October 2006 was 77.9 lbs/day and the TSS daily average concentrations were 24.5 mg/L in October 2006, 22.8 mg/L in January 2007, and 25.6 mg/L in February 2007.

2. Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2006, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010788001, Sludge Provisions, as documented during a record review conducted on August 14, 2007.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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: Rayburn Country Municipal Utility District, Docket No. 2007-1519-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 Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Three Thousand Five Hundred Twenty-Eight Dollars ($3,528) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent'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 Respondent shall, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010788001. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

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

   The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent 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 Respondent 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 Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent 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 Respondent 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 Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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

John Sadlier
For the Executive Director

2/20/2008
Date

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

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

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

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

Arthur D Shepard
Signature

December 14, 2007
Date

Arthur Shepard
Name (Printed or typed)
Authorized Representative of
Rayburn Country Municipal Utility District

President
Title

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

Attachment A
Docket Number: 2007-1519-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**Rayburn Country Municipal Utility District**
Payable Penalty Amount:	**Three Thousand Five Hundred Twenty-Eight Dollars ($3,528)**
SEP Amount:	**Three Thousand Five Hundred Twenty-Eight Dollars ($3,528)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Wastewater Treatment Assistance**
Location of SEP:	**Jasper County**

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

1. Project Description

A. Project

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

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems

C. Minimum Expenditure

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

2. Performance Schedule

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

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

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

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

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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