EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1564-MWD-E **TCEQ ID:** RN102181385 **CASE NO.:** 34693

RESPONDENT NAME: City of Runaway Bay

ORDER TYPE:		
_X_1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
_X_WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: City of Runaway Bay, located approximately 2,000 feet north of United States Highway ("U.S. Hwy") 380 and approximately 7,000 feet southwest of the point where U.S. Hwy 380 crosses Lake Bridgeport, Wise County

TYPE OF OPERATION: Domestic wastewater treatment facility

SMALL BUSINESS: ___ **Yes** _X_ **No**

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired on April 28, 2008. No comments were received.

CONTACTS AND MAILING LIST:

SEP Coordinator: Ms. Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223
TCEQ Enforcement Coordinator: Ms. Lynley Doyen, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-1364; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171
Respondent: The Honorable A.L. Jowitt, Mayor, City of Runaway Bay, 101 Runaway Bay Drive, Runaway Bay, Texas 76426
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint __ Routine __ Enforcement Follow-up X Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Record Review Relating to this Case:** August 20, 2007 **Date of NOE Relating to this Case:** September 11, 2007 (NOE) **Background Facts:** This was a routine record review. **WATER** 1) Failure to comply with the permitted effluent limitations for total suspended solids, ammonia nitrogen, and carbonaceous biochemical oxygen demand [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010862001, Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a)]. 2) Failure to timely submit the annual sludge report for monitoring period ending July 31, 2006 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010862001, Sludge Provisions]. 3) Failure to timely submit the monthly discharge monitoring report ("DMR") for monitoring period ending September 30, 2006 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010862001, Monitoring and Reporting Requirements No. 1]. 4) Failure to sign and certify the DMRs for monitoring periods ending June 30, 2006, February 28, 2007, and March 31, 2007 [30 TEX. ADMIN. CODE § 305.125(14) and TPDES Permit No. WQ0010862001, Monitoring and Reporting Requirements No. 10].	**Total Assessed:** $9,675 **Total Deferred:** $1,935 X Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $7,740 **Total Paid to General Revenue:** $0 **Site Compliance History Classification** __ **High** X **Average** __ **Poor** **Person Compliance History Classification** __ **High** X **Average** __ **Poor** **Major Source:** __ Yes X No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** 1) The Executive Director recognizes that on or before October 25, 2007, the Respondent implemented the following corrective measures at the Facility: a) Submitted revised DMRs for monitoring periods ending June 30, 2006, February 28, 2007, and March 31, 2007 that were properly signed and certified; and b) Updated the Facility's operational guidance and conducted employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly DMRs and annual sludge reports. **Ordering Provisions:** 2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A). 3) The Order will require the Respondent to submit written certification of compliance with the permitted effluent limitations in TPDES Permit No. WQ0010862001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, demonstrating at least three consecutive months of compliance with all permitted effluent limitations within 60 days after the effective date of this Agreed Order. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with this Ordering Provision.

Additional ID No(s).: WQ0010862001

Attachment A
Docket Number: 2007-1564-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Runaway Bay
Penalty Amount:	Seven Thousand Seven Hundred Forty Dollars ($7,740)
SEP Offset Amount:	Seven Thousand Seven Hundred Forty Dollars ($7,740)
Type of SEP:	Custom (with pre-approved concept) – *Illegal Dump Cleanups*
Location of SEP:	Wise County

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

1. Project Description

A. Project

The Respondent shall perform cleanup of illegal dumpsites in Wise County. The Respondent shall use SEP monies to pay for the labor and disposal costs associated with proper clean up and disposal or recycling of materials from unauthorized trash dumps, including abandoned tires, used motor oil, oil filters, and other wastes. Eligible clean up sites will be limited to those where a responsible party cannot be found and where reasonable efforts have been made to prevent the dumping. The Respondent shall attempt to prevent future dumping at publicly-accessible sites by posting no dumping signs at those locations.

The Respondent shall perform this project in accordance with all federal, state and local environmental laws and regulations. The Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs. The Respondent shall use its employees and equipment only after regular working hours or on weekends and employees shall be reimbursed at overtime rates.

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 removing unauthorized trash dumps and providing for the proper disposal of debris and waste, reducing the potential health threats associated with illegally dumped wastes, helping rid communities of hazardous contaminants that may leach into the soil and water, and providing for recycling of wastes.

C. Minimum Expenditure

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

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin the SEP. The Respondent shall complete the project within 365 days after the effective date of this Agreed Order.

3. Reporting

A. Progress Reports

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

B. Final Report

Within 90 days after final completion of the project, the Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits, including an estimate of the amount of materials that were recycled;
4. Number of dumpsites, pounds, and types of waste collected;
5. Map showing specific location of the cleanup sites;
6. Photographs of the project; and
7. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

C. Address

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

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

4. Additional Information and Access

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

5. Failure to Fully Perform

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

In the event of incomplete performance, the Respondent shall submit a check for any amount due with a notation that the payment is for a "SEP Refund", and the docket number of the case. The Respondent shall make the check out to "Texas Commission on Environmental Quality" and mail it to:

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

6. Publicity

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

7. Clean Texas Program

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

8. Other SEPs by TCEQ or Other Agencies

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

Penalty Calculation Worksheet (PCW)

TCEQ

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

DATES					
Assigned	17-Sep-2007				
PCW	4-Jan-2008	Screening	25-Sep-2007	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	City of Runaway Bay		
Reg. Ent. Ref. No.	RN102181365		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	34693	No. of Violations	4
Docket No.	2007-1564-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Lynley Doyen
Multi-Media		EC's Team	EnforcementTeam 1
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* $4,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 130% Enhancement — *Subtotals 2, 3, & 7* $5,850

Notes: The penalty is enhanced due to 20 self-reported effluent violations, two NOVs with violations same or similar to those cited in this action, and one agreed final enforcement order containing a denial of liability.

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	$3,532
Approx. Cost of Compliance	$25,325

SUM OF SUBTOTALS 1-7 — *Final Subtotal* $10,350

OTHER FACTORS AS JUSTICE MAY REQUIRE — -7% — *Adjustment* -$675

Reduces or enhances the Final Subtotal by the indicated percentage.

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

Final Penalty Amount $9,675

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* $9,675

DEFERRAL — 20% Reduction — *Adjustment* -$1,935

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $7,740

Screening Date 25-Sep-2007 **Docket No.** 2007-1564-MWD-E **PCW**

Respondent City of Runaway Bay *Policy Revision 2 (September 2002)*

Case ID No. 34693 *PCW Revision September 19, 2007*

Reg. Ent. Reference No. RN102181385

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

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*)	22	110%
	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) 130%

>> 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 due to 20 self-reported effluent violations, two NOVs with violations same or similar to those cited in this action, and one agreed final enforcement order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 130%

Screening Date 25-Sep-2007 **Docket No.** 2007-1564-MWD-E **PCW**

Respondent City of Runaway Bay *Policy Revision 2 (September 2002)*

Case ID No. 34693 *PCW Revision September 19, 2007*

Reg. Ent. Reference No. RN102181385

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

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. WQ0010862001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with the permitted effluent limitations, as documented in the attached table.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

OR

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: A simplified model was used to evaluate ammonia-nitrogen and carbonaceous biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health and the environment. Total suspended solids and flow were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 4 245 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $4,000

Four quarterly events are recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $3,505

Statutory Limit Test

Violation Final Penalty Total $8,600

This violation Final Assessed Penalty (adjusted for limits) $8,600

Economic Benefit Worksheet

Respondent City of Runaway Bay
Case ID No. 34693
Reg. Ent. Reference No. RN102181385
Media Water Quality
Violation No. 1

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)	$25,000	31-May-2006	31-May-2008	2.0	$167	$3,338	$3,505
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 costs to rehabilitate and repair the system to minimize inflow and infiltration. 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: $25,000

TOTAL: $3,505

Screening Date 25-Sep-2007 **Docket No.** 2007-1564-MWD-E **PCW**

Respondent City of Runaway Bay *Policy Revision 2 (September 2002)*

Case ID No. 34693 *PCW Revision September 19, 2007*

Reg. Ent. Reference No. RN102181385

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0010862001, Sludge Provisions

Violation Description Failed to timely submit the annual sludge report for 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: At least 70% of the permit requirement was met.

Adjustment $9,900

$100

Violation Events

Number of Violation Events 1 389 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 $8

Statutory Limit Test

Violation Final Penalty Total $215

This violation Final Assessed Penalty (adjusted for limits) $215

Economic Benefit Worksheet

Respondent City of Runaway Bay
Case ID No. 34693
Reg. Ent. Reference No. RN102181385
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	25-Oct-2007	1.1	$0	$8	$8
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 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: $100

TOTAL: $8

Screening Date 25-Sep-2007 **Docket No.** 2007-1564-MWD-E **PCW**

Respondent City of Runaway Bay *Policy Revision 2 (September 2002)*

Case ID No. 34693 *PCW Revision September 19, 2007*

Reg. Ent. Reference No. RN102181385

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0010862001, Monitoring and Reporting Requirements No. 1

Violation Description Failed to timely submit the monthly discharge monitoring report ("DMR") for monitoring period ending September 30, 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: At least 70% of the permit requirement was met.

Adjustment $9,900

$100

Violation Events

Number of Violation Events 1 | 340 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 $2

Statutory Limit Test

Violation Final Penalty Total $215

This violation Final Assessed Penalty (adjusted for limits) $215

Economic Benefit Worksheet

Respondent City of Runaway Bay
Case ID No. 34693
Reg. Ent. Reference No. RN102181385
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)	$25	20-Oct-2006	25-Oct-2007	1.0	$0	$2	$2
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 monthly DMR. Date required is the date the DMR was due. Final date is the date of compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance: $25

TOTAL: $2

Screening Date 25-Sep-2007 **Docket No.** 2007-1564-MWD-E **PCW**

Respondent City of Runaway Bay *Policy Revision 2 (September 2002)*

Case ID No. 34693 *PCW Revision September 19, 2007*

Reg. Ent. Reference No. RN102181385

Media [Statute] Water Quality

Enf. Coordinator Lynley Doyen

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code § 305.125(14) and TPDES Permit No. WQ0010862001, Monitoring and Reporting Requirements No. 10

Violation Description Failed to sign and certify the DMRs for monitoring periods ending June 30, 2006, February 28, 2007, and March 31, 2007.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: At least 70% of the permit requirement was met.

Adjustment $9,900

$100

Violation Events

Number of Violation Events 3

3 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $300

Three single events (one event for each unsigned DMR) is recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $18

Statutory Limit Test

Violation Final Penalty Total $645

This violation Final Assessed Penalty (adjusted for limits) $645

Economic Benefit Worksheet

Respondent City of Runaway Bay
Case ID No. 34693
Reg. Ent. Reference No. RN102181385
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)	$200	20-Jul-2006	25-Oct-2007	1.3	$1	$17	$18
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 update operational guidance and conduct employee training to ensure that DMRs are properly completed and submitted. Date required is the date the first noncompliant DMR was required to be submitted. Final date is the date of compliance.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance: $200

TOTAL: $18

EFFLUENT VIOLATION TABLE								
City of Runaway Bay TPDES Permit No. WQ0010862001 Docket No. 2007-1564-MWD-E								
	Monitoring Period End Date							
Permitted Effluent Limits	5/31/06	6/30/06	7/31/06	8/31/06	11/30/06	1/31/07	3/31/2007	4/30/2007
TSS daily avg. conc. Limit = 5.0 mg/L	c	c	5.2	5.5	c	6.1	c	c
NH3-N daily avg. loading Limit = 5.0 lbs/day	c	c	c	6.12	c	c	6.76	c
NH3-N daily avg. conc. Limit = 1.5 mg/L	2.08	1.76	3.7	10.89	c	c	9.3	4.8
CBOD daily avg. conc. Limit = 5.0 mg/L	c	c	c	7.4	5.1	c	c	c

avg. = average
c = compliant
CBOD = carbonaceous biochemical oxygen demand
conc. = concentration
lbs/day = pounds per day
mg/L = milligrams per liter
NH3-N = ammonia nitrogen
TSS = total suspended solids

Compliance History

Customer/Respondent/Owner-Operator:	CN600652101	City of Runaway Bay	Classification: AVERAGE	Rating: 5.94
Regulated Entity:	RN102181385	CITY OF RUNAWAY BAY	Classification: AVERAGE	Site Rating: 5.94

ID Number(s):

WASTEWATER	PERMIT	WQ0010862001
WASTEWATER	PERMIT	TPDES0026689
WASTEWATER	PERMIT	TX0026689
WASTEWATER LICENSING	LICENSE	WQ0010862001

Location: LOCATED APPRX 2,000 FT N OF US HWY 380 & APPRX 7,000 FT SW OF THE POINT WHERE US HWY 380 CROSSES LAKE BRIDGEPORT, WISE CO, TX

Rating Date: 9/1/2007
Repeat Violator: NO

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: September 25, 2007

Agency Decision Requiring Compliance History: Enforcement

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

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

Name: Lynley Doyen Phone: 512-239-1364

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: 11/22/2002 ADMINORDER 2001-1311-MWD-E

Classification: Major
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(8)
TWC Chapter 26 26.121
Rqmt Prov: Not Available PERMIT
Description: Failure to obtain proper authorization from the TNRCC prior to the unauthorized discharge of treated effluent to a holding pond. Specifically, the City has been discharging effluent to a holding pond rather than directly to the discharge route.

Classification: Moderate
Citation: TWC Chapter 26 26.121(c)
Rqmt Prov: OR 4 PERMIT
Part III, B3a PERMIT
PC, 2g PERMIT
Description: Failure to prevent the unauthorized discharge of 150-350 gallons of untreated wastewater from the collection system at a lift station on January 18, 2001 (cause listed as electrical contact failure due to power outage).

Classification: Moderate
Rqmt Prov: Not specified PERMIT
Part III, B3 PERMIT
Description: Failure to ensure that systems of collect., treatmnt and disp. are properly operated. Bar screenings were not held in a covered container, floating solids were present in chlorine contact chamber, and self-contained breath. apparatus equip was dirty

Classification: Moderate
Citation: 30 TAC Chapter 311, SubChapter G 311.63(a)(2)
Rqmt Prov: OR 3 PERMIT
OR 7 PERMIT
Description: Failure to construct and utilize required units at the waterwater facility. No effluent filters have been added to the ww treatment plant as required.

Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)
30 TAC Chapter 305, SubChapter F 305.125(9)(A)
Rqmt Prov: M&R 1 PERMIT
M&R 7a PERMIT
Part IB PERMIT
Part III D7 PERMIT
Description: Failure to properly monitor and submit self-reported effluent information, including the submission of DMRs and a noncompliance notification.

Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(c)
Rqmt Prov: FEL&MR PERMIT
Int I ELMR PERMIT
Description: Failure to comply with the following permitted limits: total residual chlorine min limit of 1 mg/L reported values: 0.93 m g/L in 2/01 and 0.68 mg/L in 7/01; pH min limit of 6.0 standard units, reported value 5.9 s.u. in 12/00.

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 09/25/2002 (174402)
2 10/23/2002 (174403)
3 11/22/2002 (174404)
4 01/02/2003 (174405)
5 02/21/2003 (174396)
6 02/24/2003 (174406)
7 03/21/2003 (281297)
8 03/24/2003 (302259)
9 04/23/2003 (302261)
10 05/19/2003 (302262)
11 06/25/2003 (302263)
12 08/28/2003 (302266)
13 09/26/2003 (302267)
14 10/14/2003 (302265)
15 10/27/2003 (302268)
16 12/04/2003 (302269)
17 12/22/2003 (302270)
18 01/23/2004 (302271)
19 02/26/2004 (302258)
20 03/25/2004 (302260)
21 05/03/2004 (354850)
22 05/20/2004 (354851)
23 06/21/2004 (302264)
24 07/23/2004 (421209)
25 09/02/2004 (354852)
26 09/22/2004 (354853)
27 10/21/2004 (383379)
28 11/29/2004 (383380)
29 12/27/2004 (354854)
30 01/24/2005 (383381)
31 02/24/2005 (421204)
32 03/16/2005 (383378)
33 04/21/2005 (421205)
34 05/03/2005 (378402)
35 05/23/2005 (421206)
36 06/24/2005 (421207)
37 07/13/2005 (421208)
38 07/13/2005 (421210)
39 07/13/2005 (421211)
40 07/13/2005 (421212)
41 07/13/2005 (421213)
42 07/13/2005 (421214)
43 07/13/2005 (421215)
44 07/15/2005 (429998)
45 08/25/2005 (442193)
46 09/27/2005 (442194)
47 10/21/2005 (471124)
48 11/28/2005 (471125)
49 12/27/2005 (471126)
50 01/23/2006 (471127)
51 02/27/2006 (471122)
52 03/22/2006 (471123)
53 04/24/2006 (499923)
54 06/01/2006 (499924)
55 06/21/2006 (499925)
56 07/25/2006 (522024)
57 09/01/2006 (522025)
58 09/06/2006 (433518)
59 09/26/2006 (522026)
60 11/30/2006 (546682)
61 12/27/2006 (546683)
62 01/24/2007 (578927)
63 03/12/2007 (578924)
64 03/29/2007 (578925)
65 05/07/2007 (578926)
66 09/12/2007 (572925)

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

Date: 01/31/2004 (302258)

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 (302260)

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: 07/31/2004 (354852)

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 (354854)

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: 04/29/2005 (378402)

Self Report? NO Classification: Moderate
Citation: TWC Chapter 26 26.121(a)(1)
Description: Failure to prevent any discharge which has reasonable likelihood of adversely affecting human health or the environment.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT WQ0010862-001
Description: Failure to comply with final effluent limitations.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT WQ0010862-001
Description: Failure to collect 24-hr composite samples as required by the permit.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 319, SubChapter A 319.4
Rqmt Prov: PERMIT R10862-001
Description: Failure to provide fecal coliform monitoring.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)[G]
Description: Failure to provide adequate sampling documentation.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.7(e)
Description: Failure to accurately complete DMRs.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT WQ0010862-001
Description: Failure to submit a closure plan for the old treatment plant.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to properly dispose of sludge.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: Failure to properly maintain the drying beds.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT WQ0010862-001
Description: Failure to notify the TCEQ 45 days prior to completion of the new facilities.

Date: 04/30/2005 (421206)

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: 05/31/2005 (421207)

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: 07/15/2005 (429998)

Self Report? NO
Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Self Report? NO
Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 07/31/2005 (442193)

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

Date: 08/31/2005 (442194)

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

Date: 10/31/2005 (471125)

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: 01/31/2006 (471122)

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

Date: 03/31/2006 (499923)

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

Date: 04/30/2006 (499924)

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: 05/31/2006 (499925)

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

Date: 06/30/2006 (522024)

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

Date: 07/31/2006 (522025)

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

Date: 08/31/2006 (522026)

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: 11/30/2006 (546683)

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 (578924)

Self Report? YES
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
Classification: Moderate

Date: 03/31/2007 (578926)

Self Report? YES
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
Classification: Moderate

Date: 04/30/2007

Self Report? YES
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
Classification: Moderate

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
CITY OF RUNAWAY BAY	§	
RN102181385	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2007-1564-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Runaway Bay ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a domestic wastewater treatment facility located approximately 2,000 feet north of United States Highway ("U.S. Hwy.") 380 and approximately 7,000 feet southwest of the point where U.S. Hwy. 380 crosses Lake Bridgeport in Wise County, Texas (the "Facility").

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

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

4. The City received notice of the violations alleged in Section II ("Allegations") on or about September 16, 2007.

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

6. An administrative penalty in the amount of Nine Thousand Six Hundred Seventy-Five Dollars ($9,675) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Seven Thousand Seven Hundred Forty Dollars ($7,740) of the administrative penalty shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP") and One Thousand Nine Hundred Thirty-Five Dollars ($1,935) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.

8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.

9. The Executive Director recognizes that on or before October 25, 2007, the City implemented the following corrective measures at the Facility:

   a. Submitted revised discharge monitoring reports ("DMRs") for monitoring periods ending June 30, 2006, February 28, 2007, and March 31, 2007 that were properly signed and certified; and

   b. Updated the Facility's operational guidance and conducted employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly DMRs and annual sludge reports.

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

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

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

II. ALLEGATIONS

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

1. Failed to comply with the permitted effluent limitations, 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. WQ0010862001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on August 20, 2007 and shown in the following table:

EFFLUENT VIOLATION TABLE								
	Monitoring Period End Date							
Permitted Effluent Limits	5/31/06	6/30/06	7/31/06	8/31/06	11/30/06	1/31/07	3/31/2007	4/30/2007
TSS daily avg. conc. Limit = 5.0 mg/L	c	c	5.2	5.5	c	6.1	c	c
NH3-N daily avg. loading Limit = 5.0 lbs/day	c	c	c	6.12	c	c	6.76	c
NH3-N daily avg. conc. Limit = 1.5 mg/L	2.08	1.76	3.7	10.89	c	c	9.3	4.8
CBOD daily avg. conc. Limit = 5.0 mg/L	c	c	c	7.4	5.1	c	c	c

avg. = average
c = compliant
CBOD = carbonaceous biochemical oxygen demand
conc. = concentration
lbs/day = pounds per day
mg/L = milligrams per liter
NH3-N = ammonia nitrogen
TSS = total suspended solids

2. Failed to timely submit the annual sludge report for monitoring period ending July 31, 2006, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010862001, Sludge Provisions, as documented during a record review conducted on August 20, 2007.

3. Failed to timely submit the monthly discharge monitoring report ("DMR") for monitoring period ending September 30, 2006, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010862001, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on August 20, 2007.

4. Failed to sign and certify the DMRs for monitoring periods ending June 30, 2006, February 28, 2007, and March 31, 2007, in violation of 30 TEX. ADMIN. CODE § 305.125(14) and TPDES Permit No. WQ0010862001, Monitoring and Reporting Requirements No. 10, as documented during a record review conducted on August 20, 2007.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Runaway Bay, Docket No. 2007-1564-MWD-E" to:

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

2. The City shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Seven Thousand Seven Hundred Forty Dollars ($7,740) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. It is further ordered that within 60 days after the effective date of this Agreed Order, the City shall submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010862001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with this Ordering Provision. 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
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2301 Gravel Drive
Fort Worth, Texas 76118-6951

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

5. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 3/21/2008
For the Executive Director Date

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

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

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

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

_____ FEB 7, 2008
Signature Date

A.L. JOWITT MAYOR _____ MAYOR
Name (Printed or typed) Title
Authorized Representative of
City of Runaway Bay

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: 2007-1564-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Runaway Bay
Penalty Amount:	Seven Thousand Seven Hundred Forty Dollars ($7,740)
SEP Offset Amount:	Seven Thousand Seven Hundred Forty Dollars ($7,740)
Type of SEP:	Custom (with pre-approved concept) – *Illegal Dump Cleanups*
Location of SEP:	Wise County

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

1. Project Description

A. Project

The Respondent shall perform cleanup of illegal dumpsites in Wise County. The Respondent shall use SEP monies to pay for the labor and disposal costs associated with proper clean up and disposal or recycling of materials from unauthorized trash dumps, including abandoned tires, used motor oil, oil filters, and other wastes. Eligible clean up sites will be limited to those where a responsible party cannot be found and where reasonable efforts have been made to prevent the dumping. The Respondent shall attempt to prevent future dumping at publicly-accessible sites by posting no dumping signs at those locations.

The Respondent shall perform this project in accordance with all federal, state and local environmental laws and regulations. The Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs. The Respondent shall use its employees and equipment only after regular working hours or on weekends and employees shall be reimbursed at overtime rates.

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 removing unauthorized trash dumps and providing for the proper disposal of debris and waste, reducing the potential health threats associated with illegally dumped wastes, helping rid communities of hazardous contaminants that may leach into the soil and water, and providing for recycling of wastes.

C. Minimum Expenditure

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

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin the SEP. The Respondent shall complete the project within 365 days after the effective date of this Agreed Order.

3. Reporting

A. Progress Reports

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

B. Final Report

Within 90 days after final completion of the project, the Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits, including an estimate of the amount of materials that were recycled;
4. Number of dumpsites, pounds, and types of waste collected;
5. Map showing specific location of the cleanup sites;
6. Photographs of the project; and
7. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

C. Address

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

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

4. Additional Information and Access

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

5. Failure to Fully Perform

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

In the event of incomplete performance, the Respondent shall submit a check for any amount due with a notation that the payment is for a "SEP Refund", and the docket number of the case. The Respondent shall make the check out to "Texas Commission on Environmental Quality" and mail it to:

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

6. Publicity

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

7. Clean Texas Program

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

8. Other SEPs by TCEQ or Other Agencies

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