EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2005-0223-MWD-E **TCEQ ID:** RN103124137 **CASE NO.:** 24393

RESPONDENT NAME: City of Dilley

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 Dilley, located on Crawford Road, approximately 3,000 feet east of the intersection of White Street and Houston Street, Dilley, Frio County

TYPE OF OPERATION: Wastewater treatment plant

SMALL BUSINESS: ____ **Yes** X **No**

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired on December 27, 2007. 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: Ms. Rebecca Clausewitz, Enforcement Division, Enforcement Team 2, R-13, (210) 403-4012; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171
Respondent: Mr. Noel Perez, City Administrator, City of Dilley, P.O. Box 230, Dilley, Texas 78017
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: ___ Complaint ___ Routine ___ Enforcement Follow-up X Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** December 13, 2004 **Date of NOV/NOE Relating to this Case:** December 21, 2004 (NOE) **Background Facts:** This was a routine records review investigation. One violation was documented **WATER** Failed to comply with the permitted effluent limits for Total Suspended Solids, pH, and 5-day Carbonaceous Biochemical Oxygen Demand, at Outfall 001 [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10404-003, Effluent Limitations and Monitoring Requirements 1 and 3, and TEX. WATER CODE § 26.121(a)(1)].	**Total Assessed:** $2,540 **Total Deferred:** $508 X Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $2,032 **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 the Respondent came into compliance with all effluent limits in TPDES Permit No. 10404-003 as of September 2004. **Ordering Provisions:** The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)

Additional ID(s): TPDES Permit No. 10404-003

Attachment A
Docket Number: 2005-0223-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Dilley
Penalty Amount:	Two Thousand Thirty-Two Dollars ($2,032)
SEP Amount:	Two Thousand Thirty-Two Dollars ($2,032)
Type of SEP:	Pre-approved SEP
Third-Party Recipient:	Texas Association of Resource Conservation & Development Areas, Inc. ("RC&D") ***Unauthorized Trash Dump Cleanup***
Location of SEP:	Frio County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for 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

Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be to the ***Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")*** and shall be used to clean up sites where tires have been disposed of illegally. Remaining SEP monies not completely spent on the Abandoned Tire Cleanup project in the City of Dilley may, upon approval of the Executive Director, be spent on an Unauthorized Trash Dump Cleanup, Wastewater Treatment Assistance, or other approved project within Frio County. Specifically, SEP monies will be used to pay for the labor and disposal costs associated with proper clean up and disposal of abandoned tires, clean up of unauthorized trash dumps, to assist to low-income residents with failing on site wastewater systems, to plug abandoned wells, or to conduct antifreeze recycling. Eligible cleanup 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 projects will be administered in accordance with federal, state, and local environmental laws and regulations. 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

The abandoned tire cleanup up or unauthorized trash dump and portions of this project will provide a discernable environmental benefit by providing for the proper disposal of debris and waste, reducing the potential health threats associated with illegally dumped wastes, helping rid the community of hazardous contaminants that may leach into the soil and water, and helping to prevent the release of harmful chemicals into the air should illegally dumped tires catch fire.

The wastewater portion of this SEP would provide a discernible environmental benefit by preventing the release of sewage into the environment. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis. People can be exposed through:

- Sewage in drinking water sources.
- Direct contact in areas of public access such as in lawns or streets, or waters used for recreation.
- Shellfish harvested from areas contaminated by raw sewage.
- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

The plugging of abandoned wells project would provide an environmental benefit by reducing the potential for contamination of groundwater and aquifers from pollutants that may be dumped into the well opening.

Recycling of antifreeze would provide an environmental benefit by providing a convenient disposal method for used antifreeze. Antifreeze (ethylene glycol) is a common coolant for automobile engines. Ingestion of antifreeze and its derivatives may lead to kidney failure and harmful effects to the liver. Exposure to ethylene glycol may cause eye and skin irritation. If improperly disposed in the environment, ethylene glycol may be ingested by domestic animals or wildlife. Ingestion may be fatal to small animals. A sudden release of ethylene or propylene glycol into a waterway can produce adverse impacts upon fresh water and marine environments. Glycol degradation in the environment has a high oxygen demand and as a result threatens or negatively impacts aquatic life. Ammonia gas is also released to the environment by the degradation of glycols.

C. Minimum Expenditure

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, Respondent shall contribute the SEP Amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation
and Development Areas, Inc. (RC&D)
Attention: Eddi Darilek
1716 Briarcrest Drive Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

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

In the event of incomplete performance, the Respondent shall submit a check for any remaining amount due with the notation "SEP Refund" and the docket number of the case, and shall send it 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

5. Publicity

Any public statements concerning this SEP made by or on behalf of 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

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

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order 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 December 10, 2004*

DATES **Assigned** 28-Dec-2004
PCW 02-Feb-2005 **Screening** 11-Jan-2005 **Priority Due** 26-Feb-2005 **EPA Due**

RESPONDENT/FACILITY INFORMATION

Respondent	City of Dilley
Reg. Ent. Ref. No.	RN103124137
Additional ID No(s).	Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10404-003
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor Source

CASE INFORMATION

Enf./Case ID No.	24393	**No. of Violations**	1
Docket No.	2005-0223-MWD-E	**Order Type**	1660 with deferral
Case Priority	3	**Enf. Coordinator**	Rebecca Clausewitz
Media Program(s)	Water Quality	**EC's Team**	Enforcement Team 7
Multi-Media			
Admin. Penalty $ Limit Minimum	$0	**Maximum**	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) *Subtotal 1* $2,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **52%** Enhancement *Subtotals 2, 3, & 7* $1,040

Notes: The penalty enhancement is for 10 months of self-reported effluent violations and one prior NOV, dated September 27, 2000, for a violation that is dissimilar to the violations contained in the current enforcement action.

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

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply **25%** Reduction *Subtotal 5* -$500

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

Notes: The Respondent came into compliance with all permit effluent limits as of September 2004.

Economic Benefit **0%** Enhancement* *Subtotal 6* $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$5,250
Approx. Cost of Compliance	$5,000

SUM OF SUBTOTALS 1-7 **Final Subtotal** $2,540

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

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

Notes:

Final Penalty Amount $2,540

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** $2,540

DEFERRAL 20% Reduction **Adjustment** -$508

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

Notes: A deferral is offered for expedited settlement.

PAYABLE PENALTY $2,032

Screening Date 11-Jan-2005 **Docket No.** 2005-0223-MWD-E **PCW**

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

Case ID No. 24393 *PCW Revision December 10, 2004*

Reg. Ent. Reference No. RN103124137

Additional ID No(s). Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10404-003

Media [Statute] Water Quality

Enf. Coordinator Rebecca Clausewitz

Site Address On Crawford Road, approx. 3000 feet east of the intersection of White Street and Houston Street, Dilley, Frio County, Texas 78017

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)*	10	50%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability *(number of orders meeting criteria)*	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government *(number of judgements or consent decrees meeting criteria)*	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government *(number of counts)*	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were*	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) **52%**

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

No

Adjustment Percentage (Subtotal 3) **0%**

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

Average Performer

Adjustment Percentage (Subtotal 7) **0%**

>> **Compliance History Summary**

Compliance History Notes The penalty enhancement is for 10 months of self-reported effluent violations and one prior NOV, dated September 27, 2000, for a violation that is dissimilar to the violations contained in the current enforcement action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) **52%**

Screening Date 11-Jan-2005 **Docket No.** 2005-0223-MWD-E **PCW**

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

Case ID No. 24393 *PCW Revision December 10, 2004*

Reg. Ent. Reference No. RN103124137

Additional ID No(s). Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10404-003

Media [Statute] Water Quality

Enf. Coordinator Rebecca Clausewitz

Violation Number 1

Primary Rule Cite(s) Tex. Admin. Code § 305.125(1) and TPDES Permit No. 10404-003, Effluent Limitations and Monitoring Requirements 1 and 3

Secondary Rule Cite(s) Tex. Water Code § 26.121(a)(1)

Violation Description Failure to comply with the permitted effluent limits for total suspended solids ("TSS"), pH, and 5-day carbonaceous biochemical oxygen demand ("CBOD5") at Outfall 001, as documented during a record review conducted on December 13, 2004. Specifically, the Respondent exceeded the daily average permit limit of 15 milligrams per liter ("mg/L") and daily maximum permit limit of 40 mg/L for TSS, reporting 18 mg/L (20% over the permit limit) and 46 mg/L (15% over the permit limit) in September 2003, 19 mg/L (27% over the permit limit) in March 2004, and 20 mg/L (33% over the permit limit) and 43 mg/L (7% over the permit limit) in May 2004; failed to meet the monthly minimum of 6.0 mg/L for pH, reporting 5.92 mg/L (1% under the minimum) in September 2003 and 4.68 mg/L (22% under the minimum) in March 2004; and exceeded the daily maximum of 25 mg/L for CBOD5, reporting 30 mg/L (20% over the permit limit) in September 2003.

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

Matrix Notes: Using the simplified model, it was determined that, as a result of these discharges, the environment was exposed to insignificant amounts of pollutants that did not exceeded levels protective of human health and environmental receptors.

Adjustment -$9,000

Base Penalty Subtotal $1,000

Violation Events

Number of Violation Events 2

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

Violation Base Penalty $2,000

Two quarterly events are recommended for the two quarters (September through November 2003 and March through May 2004) in which effluent violations occurred.

Economic Benefit (EB) for this violation

Estimated EB Amount $5,250

Statutory Limit Test

Violation Final Penalty Total $2,540

This violation Final Assessed Penalty (adjusted for limits) $2,540

Economic Benefit Worksheet

Respondent City of Dilley
Case ID No. 24393
Reg. Ent. Reference No. RN103124137
Additional ID No(s). Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10404-003
Media [Statute] Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

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

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]	$5,000	01-Sep-2003	31-Aug-2004	1.0	$250	$5,000	$5,250
Other (as needed)				0.0	$0	$0	$0

Notes for AVOIDED costs: The avoided costs include the amount for additional oversight and sampling which might have reduced or alleviated the exceedances, calculated from the first month when violations were reported to the last month when violations were reported.

Approx. Cost of Compliance: $5,000

TOTAL $5,250

Compliance History

Customer/Respondent/Owner-Operator:	CN600738298	City of Dilley	Classification: AVERAGE	Rating: 1.050
Regulated Entity:	RN103124137	CITY OF DILLEY	Classification: AVERAGE	Site Rating: 0.67

ID Number(s):

WASTEWATER LICENSING	LICENSE	WQ0010404003
WASTEWATER	PERMIT	TPDES0115282
WASTEWATER	PERMIT	WQ0010404003

Location: located approximately 3000 feet east along Crawford Road from the intersection of White St and Houston St in Frio County, TX — Rating Date: 9/1/04 — Repeat Violator: NO

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: February 10, 2005

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: February 10, 2000 to February 10, 2005

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

Name: Rebecca Clausewitz Phone: (210) 403-4012

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

N/A

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

N/A

C. Chronic excessive emissions events.

N/A

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

05/15/2001 (229528)
05/09/2000 (229527)
04/16/2003 (229526)
04/08/2002 (229525)
04/11/2001 (229524)
07/20/2000 (229523)
07/20/2000 (229522)
03/06/2003 (229521)
03/11/2002 (229520)

03/12/2001 (229519)
02/07/2003 (229518)
09/27/2000 (247596)
02/11/2002 (229517)
02/14/2001 (229516)
07/20/2000 (229515)
07/10/2001 (39442)
02/06/2004 (325332)
03/08/2004 (325333)
04/12/2004 (325334)
06/05/2003 (325335)
07/14/2003 (325336)
01/08/2004 (325337)
09/12/2003 (325338)
10/10/2003 (325339)
11/05/2003 (325340)
12/10/2003 (325341)
01/08/2004 (325342)
07/20/2000 (229558)
01/09/2003 (229557)
01/16/2002 (229556)
01/10/2001 (229555)
07/20/2000 (229554)
12/09/2002 (229553)
12/07/2001 (229552)
12/11/2000 (229551)
07/20/2000 (229550)
11/13/2002 (229549)
11/12/2001 (229548)
11/10/2000 (229547)
12/22/2004 (344141)
07/20/2000 (229546)
10/09/2002 (229545)
10/10/2001 (229544)
10/09/2000 (229543)
09/09/2002 (229542)
09/11/2001 (229541)
09/12/2000 (229540)
08/14/2002 (229539)
07/31/2001 (229538)
08/15/2000 (229537)
07/12/2002 (229536)
07/09/2001 (229535)
07/10/2000 (229534)
06/12/2002 (229533)
06/12/2001 (229532)
06/23/2000 (229531)
05/09/2003 (229530)
05/15/2002 (229529)

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

Date: 02/29/2000 (229522)
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 (229521)
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: 02/28/2002 (229520)
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 (229518)
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: 09/27/2000 (247596)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 05/31/2004 (325333)
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 (325334)
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: 05/31/2003 (325335)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2003 (325339)
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: 11/30/2000 (229551)
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: 08/31/2000 (229540)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
CITY OF DILLEY	§	
RN103124137	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2005-0223-MWD-E

I. JURISDICTION AND STIPULATIONS

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

1. Dilley owns and operates a municipal wastewater treatment facility located on Crawford Road, approximately 3,000 feet east of the intersection of White Street and Houston Street in Dilley, Frio County, Texas (the "Facility").

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

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

4. Dilley received notice of the violations alleged in Section II ("Allegations") on or about December 26, 2004.

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

6. An administrative penalty in the amount of Two Thousand Five Hundred Forty Dollars ($2,540) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Two Thousand Thirty-Two Dollars ($2,032) shall be conditionally offset by Dilley's completion of a Supplemental Environmental Project ("SEP") and Five Hundred Eight Dollars ($508) is deferred contingent upon Dilley'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

Dilley fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Dilley 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 Dilley 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 Dilley came into compliance with all effluent limits in TPDES Permit No. 10404-003 as of September 2004.

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 Dilley 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, Dilley is alleged to have failed to comply with the permitted effluent limits for Total Suspended Solids ("TSS"), pH, and 5-day Carbonaceous Biochemical Oxygen Demand ("CBOD5"), at Outfall 001, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TPDES Permit No. 10404-003, Effluent Limitations and Monitoring Requirements 1 and 3, and TEX. WATER CODE § 26.121(a)(1), as documented during a record review conducted on December 13, 2004.

DATE	PARAMETER	PERMITTED LIMIT	REPORTED VALUE
September 2003	TSS Daily Average TSS Daily Maximum pH Daily Minimum CBOD5 Daily Maximum	15 mg/L 40 mg/L 6.0 mg/L 25 mg/L	18 mg/L 46 mg/L 5.92 mg/L 30 mg/L
March 2004	TSS Daily Average pH Daily Minimum	15 mg/L 6.0 mg/L	19 mg/L 4.68 mg/L
May 2004	TSS Daily Average TSS Daily Maximum	15 mg/L 40 mg/L	20 mg/L 43 mg/L

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Dilley pay an administrative penalty as set forth in Section I, Paragraph 6 above. The imposition of this administrative penalty and Dilley'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 Dilley, Docket No. 2005-0223-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. Dilley shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 of this Agreed Order, Two Thousand Thirty-Two Dollars ($2,032) of the assessed administrative penalty shall be offset with the condition that Dilley implement the SEP defined in Attachment A, incorporated herein by reference. Dilley 's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. The provisions of this Agreed Order shall apply to and be binding upon Dilley. Dilley 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.

4. If Dilley 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, Dilley's failure to comply is not a violation of this Agreed Order. Dilley shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Dilley shall notify the Executive Director within seven days after Dilley become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. 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 Dilley shall be made in writing to the Executive Director. Extensions are not effective until Dilley receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

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

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

8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Dilley, or three days after the date on which the Commission mails notice of the Order to Dilley, 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

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein.

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

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

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

Signature

2-28-08
Date

Juanita G. Santos
Name (Printed or typed)
Authorized Representative of
City of Dilley

Interim City Administrator
Title

For the Executive Director

3/7/2008
Date

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: 2005-0223-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Dilley
Penalty Amount:	Two Thousand Thirty-Two Dollars ($2,032)
SEP Amount:	Two Thousand Thirty-Two Dollars ($2,032)
Type of SEP:	Pre-approved SEP
Third-Party Recipient:	Texas Association of Resource Conservation & Development Areas, Inc. ("RC&D") ***Unauthorized Trash Dump Cleanup***
Location of SEP:	Frio County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for 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

Respondent shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be to the ***Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")*** and shall be used to clean up sites where tires have been disposed of illegally. Remaining SEP monies not completely spent on the Abandoned Tire Cleanup project in the City of Dilley may, upon approval of the Executive Director, be spent on an Unauthorized Trash Dump Cleanup, Wastewater Treatment Assistance, or other approved project within Frio County. Specifically, SEP monies will be used to pay for the labor and disposal costs associated with proper clean up and disposal of abandoned tires, clean up of unauthorized trash dumps, to assist to low-income residents with failing on site wastewater systems, to plug abandoned wells, or to conduct antifreeze recycling. Eligible cleanup 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 projects will be administered in accordance with federal, state, and local environmental laws and regulations. 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

The abandoned tire cleanup up or unauthorized trash dump and portions of this project will provide a discernable environmental benefit by providing for the proper disposal of debris and waste, reducing the potential health threats associated with illegally dumped wastes, helping rid the community of hazardous contaminants that may leach into the soil and water, and helping to prevent the release of harmful chemicals into the air should illegally dumped tires catch fire.

The wastewater portion of this SEP would provide a discernible environmental benefit by preventing the release of sewage into the environment. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis. People can be exposed through:

- Sewage in drinking water sources.
- Direct contact in areas of public access such as in lawns or streets, or waters used for recreation.
- Shellfish harvested from areas contaminated by raw sewage.
- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

The plugging of abandoned wells project would provide an environmental benefit by reducing the potential for contamination of groundwater and aquifers from pollutants that may be dumped into the well opening.

Recycling of antifreeze would provide an environmental benefit by providing a convenient disposal method for used antifreeze. Antifreeze (ethylene glycol) is a common coolant for automobile engines. Ingestion of antifreeze and its derivatives may lead to kidney failure and harmful effects to the liver. Exposure to ethylene glycol may cause eye and skin irritation. If improperly disposed in the environment, ethylene glycol may be ingested by domestic animals or wildlife. Ingestion may be fatal to small animals. A sudden release of ethylene or propylene glycol into a waterway can produce adverse impacts upon fresh water and marine environments. Glycol degradation in the environment has a high oxygen demand and as a result threatens or negatively impacts aquatic life. Ammonia gas is also released to the environment by the degradation of glycols.

C. Minimum Expenditure

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, Respondent shall contribute the SEP Amount to the Third-Party Recipient. Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Texas Association of Resource Conservation
and Development Areas, Inc. (RC&D)
Attention: Eddi Darilek
1716 Briarcrest Drive Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

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

In the event of incomplete performance, the Respondent shall submit a check for any remaining amount due with the notation "SEP Refund" and the docket number of the case, and shall send it 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

5. Publicity

Any public statements concerning this SEP made by or on behalf of 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

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

7. Other SEPs by TCEQ or Other Agencies

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