EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-0012-MWD-E **TCEQ ID:** RN101721405 **CASE NO.:** 35132

RESPONDENT NAME: City of Alba

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 Alba WWTP, located west of Farm-to-Market Road 17, one mile southwest of the intersection of State Highway 69 and Farm-to-Market Road 17, south of the City of Alba, Wood County

TYPE OF OPERATION: Wastewater treatment system

SMALL BUSINESS: ___ Yes __X__ No

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired on May 19, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768
TCEQ Enforcement Coordinator: Mr. Andrew Hunt, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-1203; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171
Respondent: The Honorable Orvin Carroll, Mayor, City of Alba, P.O. Box 197, Alba, Texas 75410
Mr. Don Alexander, Supervisor, Water/Wastewater Superintendent, City of Alba, P.O. Box 197, Alba, Texas 75410
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:** October 30, 2007 **Date of NOV/NOE Relating to this Case:** December 5, 2007 (NOE) **Background Facts:** This was a routine record review. **WATER** Failed to comply with the permitted effluent limitations for dissolved oxygen, 5-day biochemical oxygen demand, pH, total suspended solids, and flow [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014451001, Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6].	**Total Assessed:** $8,000 **Total Deferred:** $1,600 _X_ Expedited Settlement __ Financial Inability to Pay **SEP Conditional Offset:** $6,400 **Total Paid (Due) to General Revenue:** $0 **Site Compliance History Classification** ___ **High** _X_ **Average** __ **Poor** **Person Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Major Source:** ___ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** 1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A) 2) The Order will also require the Respondent to, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014451001, 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.

Additional ID No(s).: WQ0014451001

Attachment A
Docket Number: 2008-0012-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**City of Alba**
Payable Penalty Amount:	**Six Thousand Four Hundred Dollars ($6,400)**
SEP Amount:	**Six Thousand Four Hundred Dollars ($6,400)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Unauthorized Trash Dump Clean-Up**
Location of SEP:	**Wood County**

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

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to coordinate with city and/or county governmental officials regarding the clean up of sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party can not be identified and where there is no pre-existing obligation to clean up the site by the owner or the government. Additionally, reasonable efforts must have already been taken to prevent the dumping. SEP monies will be used to pay for the direct cost of collection and disposal of debris. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

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 helping rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.

C. Minimum Expenditure

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

2. Performance Schedule

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

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

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

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

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) — *PCW Revision November 6, 2007*

DATES					
Assigned	17-Dec-2007				
PCW	20-Dec-2007	Screening	19-Dec-2007	EPA Due	

RESPONDENT/FACILITY INFORMATION

Respondent	City of Alba		
Reg. Ent. Ref. No.	RN101721405		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	35132	No. of Violations	1
Docket No.	2008-0012-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Andrew Hunt
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — **120%** Enhancement — *Subtotals 2, 3, & 7* **$4,800**

Notes: An enhancement is recommended due to 24 self-reported violations.

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

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply — **0%** Reduction — *Subtotal 5* **$0**

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

Notes: The Respondent does not meet the good faith criteria.

0% Enhancement* — *Subtotal 6* **$0**

**Capped at the Total EB $ Amount*

Total EB Amounts	$1,438
Approx. Cost of Compliance	$10,000

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$8,800**

OTHER FACTORS AS JUSTICE MAY REQUIRE — **-9%** — *Adjustment* **-$800**

Reduces or enhances the Final Subtotal by the indicated percentage.

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

Final Penalty Amount **$8,000**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$8,000**

DEFERRAL — **20%** Reduction — *Adjustment* **-$1,600**

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 **$6,400**

Screening Date 19-Dec-2007 **Docket No.** 2008-0012-MWD-E **PCW**

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

Case ID No. 35132 *PCW Revision November 6, 2007*

Reg. Ent. Reference No. RN101721405

Media [Statute] Water Quality

Enf. Coordinator Andrew Hunt

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	24	120%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 120%

>> 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

An enhancement is recommended due to 24 self-reported violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 120%

Screening Date 19-Dec-2007 **Docket No.** 2008-0012-MWD-E **PCW**

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

Case ID No. 35132 *PCW Revision November 6, 2007*

Reg. Ent. Reference No. RN101721405

Media [Statute] Water Quality

Enf. Coordinator Andrew Hunt

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014451001, Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6

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

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: A simplified model was used to evaluate biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Also, total suspended solids, flow, pH, and dissolved oxygen were 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 protective of human health or environmental receptors.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 4 | 276 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 $1,438

Statutory Limit Test

Violation Final Penalty Total $8,000

This violation Final Assessed Penalty (adjusted for limits) $8,000

Economic Benefit Worksheet

Respondent City of Alba
Case ID No. 35132
Reg. Ent. Reference No. RN101721405
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)	$10,000	1-Aug-2006	20-Aug-2008	2.1	$68	$1,370	$1,438
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 perform an engineering survey to identify problems related to the treatment system. The date required is the first month of non-compliance. The 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 $10,000

TOTAL $1,438

EFFLUENT VIOLATION TABLE City of Alba TPDES Permit No. WQ0014451001 Docket No. 2008-0012-MWD-E						
Months	Dissolved Oxygen ave. conc. min.	5-Day BOD ave. loading	5-Day BOD ave. conc.	pH max. conc.	TSS daily ave. conc.	Flow daily ave. loading
	Limit = 4.0 mg/L	Limit = 20 lbs/day	Limit = 30 mg/L	Limit = 9.0 su	Limit = 90 mg/L	Limit = .08 MGD
Outfall 001						
8/31/2006	c	c	c	9.3	c	c
9/30/2006	c	c	c	9.1	123.2	c
10/31/2006	3.1	c	c	9.2	108.8	c
1/31/2007	c	c	c	c	c	0.1325
3/31/2007	c	c	44.2	c	c	c
4/30/2007	c	c	37.18	c	c	c
5/31/2007	c	27.4	34	c	c	0.1070
6/30/2007	3.4	20.4	c	c	c	c
7/31/2007	3.8	30.46	c	c	c	0.0886

ave. = average
c = compliant
BOD = biochemical oxygen demand
conc. = concentration
su = standard units
MGD = million gallons per day
lbs/day = pounds per day
max. = maximum
mg/L = milligrams per Liter
TSS = total suspended solids
min. = minimum

Compliance History

Customer/Respondent/Owner-Operator:	CN600702674	City of Alba	Classification: AVERAGE	Rating: 1.94
Regulated Entity:	RN101721405	CITY OF ALBA WWTP	Classification: AVERAGE	Site Rating: 0.87
ID Number(s):	WASTEWATER	PERMIT	WQ0014451001	
	WASTEWATER	PERMIT	TX0022489	
Location:	Located west of Farm-to-Market Road 17, one mile southwest of the intersection of State Highway 69 and Farm-to-Market Road 17, south of the City of Alba in Wood County, Texas		Rating Date: 9/1/2007	Repeat Violator: NO
TCEQ Region:	REGION 05 - TYLER			
Date Compliance History Prepared:	December 18, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	December 18, 2002 to December 18, 2007			

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

Name: Andrew Hunt Phone: 512-239-1203

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

N/A

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

N/A

C. Chronic excessive emissions events.

N/A

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

1	01/08/2003	(298428)
2	02/05/2003	(298395)
3	03/10/2003	(298399)
4	04/04/2003	(298402)
5	05/07/2003	(298406)
6	06/06/2003	(298409)
7	07/09/2003	(298411)
8	08/06/2003	(298414)
9	09/10/2003	(298417)
10	10/07/2003	(298420)
11	10/28/2003	(252330)
12	11/10/2003	(298423)
13	12/05/2003	(298426)
14	01/08/2004	(298429)
15	02/06/2004	(298396)
16	03/15/2004	(298403)
17	03/15/2004	(420360)
18	05/07/2004	(353319)
19	06/04/2004	(353320)
20	07/08/2004	(353321)
21	08/04/2004	(353322)

22 09/07/2004 (353323)
23 10/07/2004 (353324)
24 11/04/2004 (382511)
25 12/08/2004 (382512)
26 01/06/2005 (382513)
27 02/07/2005 (382509)
28 03/04/2005 (371698)
29 03/07/2005 (382510)
30 03/22/2005 (374529)
31 04/08/2005 (420361)
32 05/05/2005 (420362)
33 06/08/2005 (420363)
34 07/11/2005 (441413)
35 08/11/2005 (441414)
36 09/09/2005 (441415)
37 10/07/2005 (469594)
38 11/07/2005 (469595)
39 12/07/2005 (469596)
40 01/06/2006 (469597)
41 02/06/2006 (469591)
42 03/08/2006 (469592)
43 04/03/2006 (461117)
44 04/10/2006 (498949)
45 05/04/2006 (498950)
46 06/05/2006 (498951)
47 07/10/2006 (520975)
48 08/24/2006 (520976)
49 09/05/2006 (520977)
50 05/29/2007 (562066)
51 12/12/2007 (599475)

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

Date 12/31/2002 (298428)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date 02/28/2003 (298399)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date 03/31/2003 (298402)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date 04/30/2003 (298406)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date 12/31/2003 (298429)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date 08/31/2004 (353323)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date 09/30/2004 (353324)
Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 01/31/2005 (382509)
Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 06/30/2005 (441413)
Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 07/31/2005 (441414)
Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 08/31/2005 (441415)
Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 04/30/2006 (498950)
Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 05/31/2006 (498951)
Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 06/30/2006 (520975)
Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 07/31/2006 (520976)
Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 08/31/2006 (520977)
Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 09/30/2006
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 10/31/2006
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 01/31/2007
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 03/31/2007
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 04/30/2007
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 05/31/2007
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 06/30/2007
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter
Date 07/31/2007
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)
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 ALBA	§	
RN101721405	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2008-0012-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 Alba ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment system located west of Farm-to-Market Road 17, one mile southwest of the intersection of State Highway 69 and Farm-to-Market Road 17, south of the City of Alba in Wood 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 December 10, 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 Eight Thousand Dollars ($8,000) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Six Hundred Dollars ($1,600) 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. Six Thousand Four Hundred Dollars ($6,400) shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP").

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

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

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

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

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

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have failed to comply with 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. WQ0014451001, Effluent Limitations and Monitoring Requirements Nos. 1, 3, and 6, as documented during a record review conducted on October 30, 2007, and shown in the following effluent table:

EFFLUENT VIOLATION TABLE						
Months	Dissolved Oxygen ave. conc. min.	5-Day BOD ave. loading	5-Day BOD ave. conc.	pH max. conc.	TSS daily ave. conc.	Flow daily ave. loading
	Limit = 4.0 mg/L	Limit = 20 lbs/day	Limit = 30 mg/L	Limit = 9.0 su	Limit = 90 mg/L	Limit = .08 MGD
Outfall 001						
8/31/2006	c	c	c	9.3	c	c
9/30/2006	c	c	c	9.1	123.2	c
10/31/2006	3.1	c	c	9.2	108.8	c
1/31/2007	c	c	c	c	c	0.1325
3/31/2007	c	c	44.2	c	c	c
4/30/2007	c	c	37.18	c	c	c
5/31/2007	c	27.4	34	c	c	0.1070
6/30/2007	3.4	20.4	c	c	c	c
7/31/2007	3.8	30.46	c	c	c	0.0886

ave. = average
c = compliant
BOD = biochemical oxygen demand
conc. = concentration
su = standard units
MGD = million gallons per day
lbs/day = pounds per day
max. = maximum
mg/L = milligrams per Liter
TSS = total suspended solids
min. = minimum

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 Alba, Docket No. 2008-0012-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, Six Thousand Four Hundred Dollars ($6,400) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. It is further ordered that the City shall, within 60 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014451001, 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 be notarized by a State of Texas Notary Public and include the following certification language:

   "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

   The certification and discharge monitoring reports 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
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3756

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

_____ 4/15/2008
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.

Don Alexander 3-10-08
Signature Date

Don Alexander W/WW Supt
Name (Printed or typed) Title
Authorized Representative of
City of Alba

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: 2008-0012-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**City of Alba**
Payable Penalty Amount:	**Six Thousand Four Hundred Dollars ($6,400)**
SEP Amount:	**Six Thousand Four Hundred Dollars ($6,400)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Unauthorized Trash Dump Clean-Up**
Location of SEP:	**Wood County**

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

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to coordinate with city and/or county governmental officials regarding the clean up of sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party can not be identified and where there is no pre-existing obligation to clean up the site by the owner or the government. Additionally, reasonable efforts must have already been taken to prevent the dumping. SEP monies will be used to pay for the direct cost of collection and disposal of debris. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

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 helping rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.

C. Minimum Expenditure

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

2. Performance Schedule

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

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

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

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

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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