

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.:** 2008-0149-MWD-E **TCEQ ID:** RN100942259 **CASE NO.:** 35315

**RESPONDENT NAME:** City of Fort Worth

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> City of Fort Worth Village, near 5795 Walnut Creek, Fort Worth, Tarrant County</p> <p><b>TYPE OF OPERATION:</b> Collection line</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on May 26, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768  <b>TCEQ Enforcement Coordinator:</b> Ms. Merrilee Hupp, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4490; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Andrew Cromberg, Assistant Director of Field Operations, City of Fort Worth, 1608 11th Avenue, Fort Worth, Texas 76102  Mr. Fernando Costa, Acting Assistant City Manager, City of Fort Worth, 1608 11th Avenue, Fort Worth, Texas 76102  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> October 18, 2007</p> <p><b>Date of NOV/NOE Relating to this Case:</b> December 2, 2007 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation which documented 590 dead fish.</p> <p><b>WATER</b></p> <p>Failure to prevent an unauthorized discharge of wastewater from the collection system [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010494013, Permit Conditions 2.g.].</p>	<p><b>Total Assessed:</b> \$22,200</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$22,200</p> <p><b>Total Paid (Due) to General Revenue:</b> \$0</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Orders Justification:</b> Environmental receptors have been exposed to pollutants which exceed levels that are protective.</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:</p> <p>a. On October 18, 2007, began pumping pooled sewage from Big Fossil Creek back into the facility's treatment system, continuing to pump until removal of the pooled sewage was completed on October 22, 2007;</p> <p>b. By October 22, 2007, removed blockage from the collection line; and</p> <p>c. On October 22, 2007, completed repairs and collected upstream and downstream coliform samples to confirm that concentrations had returned to pre-discharge levels.</p> <p><b>Ordering Provisions:</b></p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p>

Additional ID No(s): RN100942259

**Attachment A**  
**Docket Number: 2008-0149-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** City of Fort Worth  
**Payable Penalty Amount:** Twenty-Two Thousand Two Hundred Dollars (\$22,200)  
**SEP Amount:** Twenty-Two Thousand Two Hundred Dollars (\$22,200)  
**Type of SEP:** Pre-approved  
**Third-Party Recipient:** Keep Texas Beautiful  
**Location of SEP:** Tarrant 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 cleanup rivers, lakes, and shorelines, by supplying project coordination, labor, supplies, and materials for cleanup events and by providing assistance with disposal fees for proper disposal of wastes collected at events. To maximize the event, cleanups will use volunteers for labor. 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 improving water quality of lakes, rivers, and creeks, reducing flooding caused by blockage of drainage outlets, reducing the potential threat to wildlife, decreasing damage to boats, and reducing injury to swimmers and bathers.



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:

Hester Bloom, Program Manager  
Keep Texas Beautiful  
P.O. Box 2251  
Austin, Texas 78768

**3. Records and Reporting**

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

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

**4. Failure to Fully Perform**

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

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

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

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



**5. Publicity**

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

**6. Clean Texas Program**

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

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

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





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 6, 2007

**TCEQ**

<b>DATES</b>	Assigned	10-Dec-2007	Screening	24-Jan-2008	EPA Due	
	PCW	24-Jan-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	City of Fort Worth		
Reg. Ent. Ref. No.	RN100942259		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	35315	No. of Violations	1
Docket No.	2008-0149-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Enf. Coordinator	Merrilee Hupp
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**

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History**  Enhancement **Subtotals 2, 3, & 7**

Notes: Upward adjustment due to Respondent receiving two NOVs with same or similar violations, three NOVs without same or similar violations, and one Agreed Order containing a denial of liability.

**Culpability**   Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply**  Reduction **Subtotal 5**

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

Notes: The Respondent stopped and cleaned up the unauthorized discharge on October 22, 2007.

**Approx. Cost of Compliance**   Enhancement\* **Subtotal 6**   
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

Notes:

No deferral is recommended for Findings Orders.

**PAYABLE PENALTY**

**Screening Date** 24-Jan-2008

**Docket No.** 2008-0149-MWD-E

**PCW**

**Respondent** City of Fort Worth

Policy Revision 2 (September 2002)

**Case ID No.** 35315

PCW Revision November 6, 2007

**Reg. Ent. Reference No.** RN100942259

**Media [Statute]** Water Quality

**Enf. Coordinator** Merrilee Hupp

**Compliance History Worksheet**

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	2	10%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	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 ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%

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)** 36%

>> **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**

Upward adjustment due to Respondent receiving two NOVs with same or similar violations, three NOVs without same or similar violations, and one Agreed Order containing a denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 36%

<b>Screening Date</b> 24-Jan-2008	<b>Docket No.</b> 2008-0149-MWD-E	<b>PCW</b>
<b>Respondent</b> City of Fort Worth	<i>Policy Revision 2 (September 2002)</i>	
<b>Case ID No.</b> 35315	<i>PCW Revision November 6, 2007</i>	
<b>Reg. Ent. Reference No.</b> RN100942259		
<b>Media [Statute]</b> Water Quality		
<b>Enf. Coordinator</b> Merrilee Hupp		
<b>Violation Number</b> <input type="text" value="1"/>		
<b>Rule Cite(s)</b>	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010494013, Permit Conditions 2.g.	
<b>Violation Description</b>	Failed to prevent an unauthorized discharge of wastewater from the collection system. Specifically, at least 120,000 gallons of wastewater was discharged into Big Fossil Creek as a result of a blockage in a downstream portion of the main lateral line. Pressure buildup from the blockage caused a joint to rupture near 5795 Walnut Creek. Investigators counted 590 dead fish ranging in size from 16 inches to minnow size, and twelve different species, as documented during the investigation on October 18, 2007.	
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	<b>Falsification</b>	<b>Major</b>	<b>Moderate</b>	<b>Minor</b>	
					<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.				

**Adjustment**

Violation Events

Number of Violation Events   Number of violation days

<i>mark only one with an x</i>	daily	<input checked="" type="checkbox"/>
	monthly	<input type="checkbox"/>
	quarterly	<input type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input type="checkbox"/>

**Violation Base Penalty**

Four daily events are recommended from the investigation date, October 18, 2007, to the date compliance was achieved on October 22, 2007.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount

Violation Final Penalty Total

**This violation Final Assessed Penalty (adjusted for limits)**

## Economic Benefit Worksheet

**Respondent** City of Fort Worth  
**Case ID No.** 35315  
**Reg. Ent. Reference No.** RN100942259  
**Media** Water Quality  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
5.0	15

Item Description	Item Cost <small>No commas or \$</small>	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
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**Delayed Costs**

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$5,600	18-Oct-2007	22-Oct-2007	0.0	\$3	n/a	\$3
Remediation/Disposal	\$21,600	18-Oct-2007	22-Oct-2007	0.0	\$12	n/a	\$12
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

**Notes for DELAYED costs**  
 Estimated cost to remove the blockage from the collection line, pumping of sewage, and sampling. Date required is the documented date of the discharge and the final date is the date the coliform results were collected to confirm compliance and the completion of cleanup.

**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 \$27,200

**TOTAL** \$15

## Compliance History

Customer/Respondent/Owner-Operator: CN600128862 City of Fort Worth Classification: AVERAGE Rating: 3.04  
Regulated Entity: RN100942259 CITY OF FORT WORTH VILLAGE Classification: AVERAGE Site Rating: 1.02  
CREEK WWTP  
ID Number(s):

AIR OPERATING PERMITS ACCOUNT NUMBER TA0512K  
AIR OPERATING PERMITS PERMIT 1704  
AIR NEW SOURCE PERMITS PERMIT 7553  
AIR NEW SOURCE PERMITS PERMIT 46811  
AIR NEW SOURCE PERMITS PERMIT 46812  
AIR NEW SOURCE PERMITS ACCOUNT NUMBER TA0512K  
AIR NEW SOURCE PERMITS AFS NUM 4843900321  
AIR NEW SOURCE PERMITS REGISTRATION 71648  
PETROLEUM STORAGE TANK  
REGISTRATION  
REGISTRATION 7527  
WASTEWATER PERMIT WQ0010494013  
WASTEWATER PERMIT WQ0010494013  
WASTEWATER PERMIT TPDES0047295  
WASTEWATER PERMIT TX0047295  
PRETREATMENT PERMIT WQ0010494013  
PRETREATMENT EPA ID TX0047295000  
WASTEWATER LICENSING LICENSE WQ0010494013  
STORMWATER PERMIT TXR05O332  
IHW CORRECTIVE ACTION SOLID WASTE REGISTRATION #(SWR) 65016

Location: Southeast of the confluence of the West Fork Trinity River  
with Village Creek, Fort Worth, Tarrant Co.  
near 5795 Walnut Creek, Fort Worth, Tarrant Co.

Rating Date: September 01 07 Repeat Violator: NO

TCEQ Region: REGION 04 - DFW METROPLEX  
Date Compliance History Prepared: January 23, 2008  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: January 23, 2003 to January 23, 2008  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Merrilee Hupp Phone: 512-239-4490

### 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? City of Fort Worth
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: 08/31/2007 ADMINORDER 2007-0387-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)

Rqmt Prov: General Terms and Conditions PERMIT

Description: Failed to timely submit an annual compliance certification no later than 30 days after the end of the certification period

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

N/A

C. Chronic excessive emissions events.

N/A

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

1 02/24/2003 (182439)  
2 03/17/2003 (182443)  
3 04/24/2003 (182448)  
4 05/23/2003 (182452)  
5 06/24/2003 (182456)  
6 07/23/2003 (305624)  
7 08/07/2003 (147639)  
8 08/18/2003 (146975)  
9 08/18/2003 (146776)  
10 08/20/2003 (305626)  
11 09/23/2003 (305628)  
12 10/22/2003 (305630)  
13 10/31/2003 (249610)  
14 11/25/2003 (305631)  
15 12/29/2003 (305632)  
16 01/21/2004 (305633)  
17 02/23/2004 (305614)  
18 03/22/2004 (305617)  
19 04/22/2004 (305618)  
20 05/18/2004 (305620)  
21 05/21/2004 (271471)  
22 06/17/2004 (305622)  
23 07/22/2004 (356196)  
24 08/30/2004 (356197)  
25 08/30/2004 (275508)  
26 09/20/2004 (356198)  
27 10/20/2004 (356199)  
28 11/23/2004 (356200)  
29 12/09/2004 (384150)  
30 01/20/2005 (384151)  
31 02/17/2005 (384148)  
32 03/15/2005 (384149)  
33 03/17/2005 (372879)  
34 04/11/2005 (377267)  
35 04/18/2005 (422080)  
36 05/17/2005 (422081)  
37 06/17/2005 (422082)  
38 07/20/2005 (442960)  
39 08/29/2005 (395374)  
40 08/30/2005 (442961)  
41 09/16/2005 (442962)  
42 10/17/2005 (472507)  
43 10/17/2005 (472508)  
44 11/15/2005 (472509)  
45 12/16/2005 (472510)  
46 01/19/2006 (472511)  
47 01/31/2006 (451584)  
48 02/17/2006 (472505)  
49 03/21/2006 (472506)  
50 04/18/2006 (500865)  
51 05/18/2006 (500866)  
52 06/16/2006 (500867)  
53 06/21/2006 (466347)  
54 06/23/2006 (483583)  
55 07/17/2006 (523009)  
56 08/31/2006 (523010)  
57 09/21/2006 (523011)  
58 10/20/2006 (547834)  
59 10/31/2006 (513817)  
60 11/16/2006 (547835)  
61 11/30/2006 (497471)

62 12/19/2006 (547836)  
63 01/05/2007 (486679)  
64 01/22/2007 (547837)  
65 01/26/2007 (537657)  
66 02/14/2007 (540499)  
67 02/15/2007 (547833)  
68 02/28/2007 (540534)  
69 03/08/2007 (543267)  
70 03/15/2007 (580655)  
71 03/23/2007 (554850)  
72 04/16/2007 (580656)  
73 05/17/2007 (580657)  
74 06/15/2007 (580658)  
75 06/21/2007 (564341)  
76 07/17/2007 (580659)  
77 07/24/2007 (568019)  
78 08/14/2007 (603139)  
79 09/13/2007 (603140)  
80 10/22/2007 (603141)  
81 12/05/2007 (610451)  
82 12/20/2007 (611731)

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

**Date: 09/01/2004 (275508)**

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.165(f)

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to sign the facility's Annual Compliance Certification with the signature of the designated Responsible Official.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 112, SubChapter A 112.2(a)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT GG 60.334(b)

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to collect, analyze, and record results of daily fuel sampling.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter E 115.412

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to maintain adequate freeboard in plant degreasers.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT Dc 60.48c(g)

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to record and maintain records of the amounts of each fuel combusted during each day.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT GG 60.334(b)

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to collect, analyze, and record daily fuel analyses.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT GG 60.334(b)

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to collect, analyze, and record daily fuel analyses.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)

40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.8(a)

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to conduct the required performance testing, and provide a performance test report to the regulatory authority within the time specified.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 115, SubChapter E 115.412(1)(C)

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to attach a permanent label summarizing the operating requirements to the degreasing units in a conspicuous location near the operator.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.145(2)(B)

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to submit a deviation reports, as required during the October 30, 2001 through April 30, 2002 deviation reporting period.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 112, SubChapter A 112.2(a)

5C THC Chapter 382, SubChapter A 382.085(b)

Description: Failure to collect, analyze, and record results of daily fuel sampling.

**Date: 03/10/2005 (372879)**

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 317 317.4(a)(8)

30 TAC Chapter 317 317.7(i)

Description: Failure to test the 2 RPZ backflow prevention devices at least once per year.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)  
30 TAC Chapter 305, SubChapter F 305.125(5)  
TWC Chapter 26 26.121  
TWC Chapter 26 26.121(a)  
TWC Chapter 26 26.121(a)(1)  
TWC Chapter 26 26.121(a)(2)  
TWC Chapter 26 26.121(a)(3)  
TWC Chapter 26 26.121(b)  
TWC Chapter 26 26.121(c)  
TWC Chapter 26 26.121(d)  
TWC Chapter 26 26.121(e)

Description: Failure to prevent the discharge of sewage in the collection system.

Date: 06/30/2006 (523009)

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: 01/05/2007 (486679)

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 315, SubChapter A 315.1

40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(5)

Description: Failure to escalate enforcement against a noncompliant industrial user to obtain compliance. Failure to randomly sample and analyze effluent from IUs to identify industries in significant noncompliance.

Date: 01/02/2008 (611731)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

5C THSC Chapter 382 382.085(b)

Rqmt Prov: PERMIT 7553, Special Condition 10A

Description: Failure to conduct stack sampling for Unit GT-2 during the fourth quarter of 2006, as required under New Source Review Permit No. 7553, Condition 10A.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF FORT WORTH  
RN100942259

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2008-0149-MWD-E**

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 Fort Worth (“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 presented this agreement to the Commission.

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

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

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

**I. FINDINGS OF FACT**

1. The City owns and operates a collection line located near 5795 Walnut Creek, in Fort Worth, Tarrant County, Texas (the “Site”).



2. The City has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation on October 18, 2007, TCEQ staff documented that at least 120,000 gallons of wastewater had discharged into Big Fossil Creek from a ruptured joint near 5795 Walnut Creek as a result of a blockage in a downstream portion of the main lateral line. Investigators counted 590 dead fish ranging in size from 16 inches to minnow size, and twelve different species.
4. The City received notice of the violations on December 7, 2007.
5. The Executive Director recognizes that the City has implemented the following corrective measures at the Site:
  - a. On October 18, 2007, began pumping pooled sewage from Big Fossil Creek back into the facility's treatment system, continuing to pump until removal of the pooled sewage was completed on October 22, 2007;
  - b. By October 22, 2007, removed blockage from the collection line; and
  - c. On October 22, 2007, completed repairs and collected upstream and downstream coliform samples to confirm that concentrations had returned to pre-discharge levels.

## II. CONCLUSIONS OF LAW

1. The City is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the City failed to prevent an unauthorized discharge of wastewater from the collection system, as documented during the investigation on October 18, 2007, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010494013, Permit Conditions 2.g.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Twenty-Two Thousand Two Hundred Dollars (\$22,200) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Twenty-Two Thousand Two Hundred Dollars (\$22,200) shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP").



### III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The City is assessed an administrative penalty in the amount of Twenty-Two Thousand Two Hundred Dollars (\$22,200) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Fort Worth, Docket No. 2008-0149-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 II, Paragraph 4, Twenty-Two Thousand Two Hundred Dollars (\$22,200) 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. 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 Site operations referenced in this Agreed Order.
4. 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.
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 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.



6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas (“OAG”) for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
7. 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.
8. 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.
9. 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.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV’T CODE § 2001.142.



## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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

  
\_\_\_\_\_  
For the Executive Director

5/21/2008  
Date

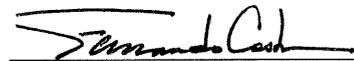
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Fort Worth. I am authorized to agree to the attached Agreed Order on behalf of the City of Fort Worth, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting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

I understand that by entering into this Agreed Order, the City of Fort Worth waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

  
\_\_\_\_\_  
Signature

3/13/08  
Date

Fernando Costa  
Name (Printed or typed)  
Authorized Representative of  
City of Fort Worth

Acting Assistant City Manager  
Title

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

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**Attachment A**  
**Docket Number: 2008-0149-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>City of Fort Worth</b>
<b>Payable Penalty Amount:</b>	<b>Twenty-Two Thousand Two Hundred Dollars (\$22,200)</b>
<b>SEP Amount:</b>	<b>Twenty-Two Thousand Two Hundred Dollars (\$22,200)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Keep Texas Beautiful</b>
<b>Location of SEP:</b>	<b>Tarrant County</b>

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 cleanup rivers, lakes, and shorelines, by supplying project coordination, labor, supplies, and materials for cleanup events and by providing assistance with disposal fees for proper disposal of wastes collected at events. To maximize the event, cleanups will use volunteers for labor. 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 improving water quality of lakes, rivers, and creeks, reducing flooding caused by blockage of drainage outlets, reducing the potential threat to wildlife, decreasing damage to boats, and reducing injury to swimmers and bathers.

# THE UNIVERSITY OF CHICAGO

THE DIVISION OF THE PHYSICAL SCIENCES

PHYSICS 309

LECTURE 10: QUANTUM MECHANICS OF PARTICLES IN POTENTIALS

1. THE SCHRÖDINGER EQUATION

2. THE PARTICLE IN A BOX

3. THE HARMONIC OSCILLATOR

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:

Hester Bloom, Program Manager  
Keep Texas Beautiful  
P.O. Box 2251  
Austin, Texas 78768

**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.

