

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**  
**DOCKET NO.: 2007-0154-MWD-E TCEQ ID: RN102097839 CASE NO.: 32544**  
**RESPONDENT NAME: CITY OF KENEDY**

<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> Approximately 1/2 mile east of Highway 72 and Farm-to-Market Road 792, Kenedy, Karnes County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment facility</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 February 25, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney:</b> Ms. Tracy Chandler, Litigation Division, MC 175, (512) 239-0629  Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873  <b>SEP Coordinator:</b> Ms. Sharon Blue, Litigation Division, MC 175, (512) 239-2223  <b>TCEQ Enforcement Coordinator:</b> Mr. Harvey Wilson, Air Enforcement Section, MC 149, (512) 239-0321  <b>TCEQ Regional Contact:</b> Mr. Sid Slocum, Dallas/Fort Worth Regional Office, MC R-4, (817) 588-5901  <b>Respondent:</b> The Honorable Randy Garza, Mayor of Kenedy, 303 West Main Street, Kenedy, Texas 78119  <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></p> <p><input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date of Complaints Relating to this Case:</b> None.</p> <p><b>Dates of Investigation Relating to this Case:</b>                      December 4, 2006</p> <p><b>Date of NOE Relating to this Case:</b>                      January 26, 2007</p> <p><b>Background Facts:</b>                      After successful settlement discussions, the Respondent signed the Agreed Order on December 21, 2007.</p> <p>The Respondent in this case does not owe any other penalties according to the Administrative Penalty Database Report.</p> <p><b>MWD</b></p> <p>1. Failed to comply with the permitted effluent limits for Biological Oxygen Demand, Total Suspended Solids, and Daily Average Flow at Outfall 001A for the monitoring periods ending June 30, 2006, July 31, 2006, and August 31, 2006 [Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010746001, Effluent Limitations, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a)].</p> <p>2. Failed to submit discharge monitoring reports at the intervals specified in the permit [TPDES Permit No. WQ0010746001, Sludge Provisions, 30 TEX. ADMIN. CODE § 305.125(17)].</p>	<p><b>Total Assessed:</b> \$29,400</p> <p><b>Total Deferred:</b> \$0</p> <p><b>SEP Conditional Offset:</b> \$29,400</p> <p><b>Total Paid to General Revenue:</b> \$0</p> <p>\$29,400 of the amount of the administrative penalty shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").</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 Order Justification:</b> The Respondent failed to prevent the discharge of pollutants that exposed human health or environment to significant amounts of pollutants which exceeded levels that are protective of human or environmental receptors.</p>	<p><b>Ordering Provisions</b></p> <p>The City shall implement and complete a SEP as defined in SEP Attachment A.</p> <p><b>Technical Requirements</b></p> <p>1. Within 30 days, submit the Sludge Report for the monitoring period ending July 31, 2006.</p> <p>2. Within 60 days, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010746001.</p>



# Penalty Calculation Worksheet (PCW)

TCEQ

DATES	Assigned	29-Jan-2007	Screening	5-Feb-2007	EPA Due	
	PCW	6-Feb-2007				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	City of Kenedy
Reg. Ent. Ref. No.	RN102097839
Facility/Site Region	13-San Antonio
Major/Minor Source	Minor

<b>CASE INFORMATION</b>				
Enf./Case ID No.	32544	No. of Violations	3	
Docket No.	2007-0154-MWD-E	Order Type	Findings	
Media Program(s)	Water Quality	Enf. Coordinator	Harvey Wilson	
Multi-Media		EC's Team	Enforcement Team 4	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$12,000</b>
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	<b>145% Enhancement</b>	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$17,400</b>
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Notes: A 145% penalty enhancement is given due to twenty-four self-reported effluent violations, one NOV for the same or a similar violation, and one 1660 Agreed Order.

<b>Culpability</b>	<b>No</b>	<b>0% Enhancement</b>	<b>Subtotal 4</b>	<b>\$0</b>
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Notes: Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply</b>	<b>0% Reduction</b>	<b>Subtotal 5</b>	<b>\$0</b>
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	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.

<b>Total EB Amounts</b>	<b>\$314</b>	<b>0% Enhancement*</b>	<b>Subtotal 6</b>	<b>\$0</b>
<b>Approx. Cost of Compliance</b>	<b>\$5,100</b>	<b>*Capped at the Total EB \$ Amount</b>		

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$29,400</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

<b>Final Penalty Amount</b>	<b>\$29,400</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$29,400</b>
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<b>DEFERRAL</b>	<b>0% Reduction</b>	<b>Adjustment</b>	<b>\$0</b>
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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.

<b>PAYABLE PENALTY</b>	<b>\$29,400</b>
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Screening Date 5-Feb-2007

Docket No. 2007-0154-MWD-E

PCW

Respondent City of Kenedy

Policy Revision 2 (September 2002)

Case ID No. 32544

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102097839

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

### 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)	25	125%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments 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) 145%

>> 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

A 145% penalty enhancement is given due to twenty-four self-reported effluent violations, one NOV for the same or a similar violation, and one 1660 Agreed Order.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 145%

Screening Date 5-Feb-2007

Docket No. 2007-0154-MWD-E

PCW

Respondent City of Kenedy

Policy Revision 2 (September 2002)

Case ID No. 32544

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102097839

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Violation Number 1

Rule Cite(s) TPDES Permit No. WQ0010746001 Effluent Limitations, 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with permit effluent limits (see attached table).

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	x			50%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

A simplified model was used to evaluate biochemical oxygen demand ("BOD") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Daily average Total Suspended Solids and Flow were also considered. As a result of these discharges, human health or the environment has been exposed to significant amounts of pollutants which exceed levels that are protective of human health or environmental receptors.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 2 Number of violation days 62

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$10,000

Two monthly events are recommended, July 2006 and August 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$313

Violation Final Penalty Total \$24,500

This violation Final Assessed Penalty (adjusted for limits) \$24,500

## Economic Benefit Worksheet

**Respondent** City of Kenedy  
**Case ID No.** 32544  
**Reg. Ent. Reference No.** RN102097839  
**Media** Water Quality  
**Violation No.** 1

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				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)	\$5,000	30-Jun-2006	30-Sep-2007	1.3	\$313	n/a	\$313

Notes for DELAYED costs

The estimated additional cost of operating the wastewater treatment plant in compliance with permit limits. Date Required is the date of the first non-compliance. Final Date is the estimated compliance date.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$313

Screening Date 5-Feb-2007

Docket No. 2007-0154-MWD-E

PCW

Respondent City of Kenedy

Policy Revision 2 (September 2002)

Case ID No. 32544

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102097839

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Violation Number 2

Rule Cite(s) TPDES Permit No. WQ0010746001 Effluent Limitations, 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with permit effluent limits (see attached 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 ("BOD") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Flow was also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

30 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended for the month of June, 2006.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$2,450

This violation Final Assessed Penalty (adjusted for limits) \$2,450

## Economic Benefit Worksheet

Respondent City of Kenedy  
 Case ID No. 32544  
 Reg. Ent. Reference No. RN102097839  
 Media Water Quality  
 Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				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

See violation No. 1

### 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

\$0

TOTAL

\$0

Screening Date 5-Feb-2007

Docket No. 2007-0154-MWD-E

PCW

Respondent City of Kenedy

Policy Revision 2 (September 2002)

Case ID No. 32544

PCW Revision December 8, 2006

Reg. Ent. Reference No. RN102097839

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Violation Number 3

Rule Cite(s) TPDES Permit No. WQ0010746001 Sludge Provisions and 30 Tex. Admin. Code § 305.125(17)

Violation Description Failed to submit discharge monitoring reports at the intervals specified. Specifically, the respondent failed to submit the sludge report for the period ending July 31, 2006.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 365 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$2,450

This violation Final Assessed Penalty (adjusted for limits) \$2,450

## Economic Benefit Worksheet

**Respondent** City of Kenedy  
**Case ID No.** 32544  
**Reg. Ent. Reference No.** RN102097839  
**Media** Water Quality  
**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System	\$100	31-Jul-2007	30-Sep-2007	0.2	\$1	n/a	\$1
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

The estimated cost of filing the necessary annual sludge report. The Date Required is the date the report was due. The Final Date is the estimated date of compliance.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$1

Effluent Limit Violation Table  
 City of Kenedy; Docket No. 2007-0154-MWD-E  
 Enforcement Case No. 32544; TPDES Permit No. WQ0010746001

	BOD Max Daily Average (loading) 82 lb/day	BOD Max Daily Average (concentration) 10 mg/L	Total Suspended Solids Daily Average (loading) 123 lb/day	Total Suspended Solids Daily Average (concentration) 15 mg/L	Daily Average Flow Max 0.983 million gallons
Month/Year	Outfall 001A	Outfall 001A	Outfall 001A	Outfall 001A	Outfall 001A
June, 2006	115	14	C	C	C
July, 2006	172	22	172	20	1.069
August, 2006	182	49	182	20	1.065

# Compliance History

Customer/Respondent/Owner-Operator:	CN600528459	City of Kenedy	Classification: AVERAGE	Rating: 1.74
Regulated Entity:	RN102097839	CITY OF KENEDY WWTP	Classification: AVERAGE	Site Rating: 1.84
	WASTEWATER	PERMIT		WQ0010746001
	WASTEWATER	PERMIT		TPDES0027774
	WASTEWATER	PERMIT		TX0027774
	SLUDGE	PERMIT		WQ0004525000
	SLUDGE	PERMIT		WQ0004525000

ID Number(s):

Location: 1/2 MI E OF HWY 72 & FM792. ACCESS THROUGH ONE MORNING LANE. Rating Date: 9/1/2006 Repeat Violator: NO

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: February 02, 2007

Agency Decision Requiring Compliance Enforcement

Compliance Period: February 02, 2002 to February 02, 2007

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

Name: Harvey Wilson Phone: 239-0321

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? No
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 | Effective Date: 10/10/2005  | ADMINORDER 2004-1936-MWD-E |
|     | Classification: Moderate  |                            |
|     | Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)<br>30 TAC Chapter 305, SubChapter F 305.125(1)                      |                            |
|     | Rqmt Prov: Effluent Limits PERMIT   |                            |
|     | Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data. |                            |
- 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  | 08/28/2002 | (176225) |
| 2  | 12/22/2003 | (303069) |
| 3  | 07/23/2002 | (176222) |
| 4  | 02/02/2005 | (343909) |
| 5  | 01/20/2004 | (303070) |
| 6  | 06/26/2002 | (176219) |
| 7  | 03/20/2006 | (471453) |
| 8  | 05/17/2002 | (176217) |
| 9  | 10/21/2005 | (471454) |
| 10 | 11/21/2005 | (471455) |

11	02/21/2005	(421409)
12	12/12/2005	(471456)
13	07/20/2006	(522231)
14	04/22/2005	(421410)
15	05/23/2005	(421411)
16	08/22/2006	(522232)
17	04/22/2003	(176214)
18	05/31/2006	(462520)
19	06/21/2005	(421412)
20	09/28/2006	(522233)
21	04/22/2002	(176213)
22	01/19/2006	(471457)
23	03/25/2002	(176209)
24	05/17/2004	(355152)
25	02/20/2003	(176207)
26	07/22/2004	(355153)
27	08/18/2004	(355154)
28	06/17/2004	(271163)
29	07/22/2005	(442393)
30	09/21/2004	(355155)
31	03/22/2005	(383574)
32	08/17/2005	(442394)
33	11/22/2004	(383575)
34	10/25/2004	(355156)
35	09/22/2005	(442395)
36	12/22/2004	(383576)
37	01/17/2005	(383577)
38	01/03/2007	(532044)
39	01/26/2007	(533039)
40	01/30/2003	(17563)
41	04/20/2006	(500121)
42	05/22/2006	(500122)
43	06/19/2006	(500123)
44	01/22/2003	(176240)
45	01/22/2003	(176237)
46	10/08/2004	(281787)
47	02/17/2004	(303057)
48	03/18/2003	(303058)
49	03/10/2004	(303059)
50	11/27/2002	(176234)
51	04/22/2004	(303060)
52	05/20/2003	(303061)
53	06/23/2003	(303062)
54	05/30/2006	(462470)
55	10/22/2002	(176231)
56	06/22/2004	(303063)
57	07/22/2003	(303064)
58	08/20/2003	(303065)
59	02/14/2006	(471452)
60	09/19/2003	(303066)
61	09/20/2002	(176228)
62	10/21/2003	(303067)
63	11/20/2003	(303068)

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

Date: 07/31/2002 (176225)

Self Report? YES

Classification Moderate

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

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

Date:	06/30/2002	(176222)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	10/31/2003	(303068)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	11/30/2003	(303069)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	12/31/2003	(303070)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	03/31/2003	(176214)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	06/30/2006	(522231)		
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:	03/31/2002	(176213)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	07/31/2006	(522232)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	08/31/2006	(522233)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)[G]			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	04/30/2004	(355152)		
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:	08/31/2004	(355155)		
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: 05/30/2006 (462470)  
 Self Report? NO Classification Minor  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)(B)  
 Description: Failure to submit the 2005 annual sludge report.

Date: 05/31/2006 (500123)  
 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: 01/31/2004 (303057)  
 Self Report? YES Classification Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2002 (176234)  
 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 (303058)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter

Date: 02/29/2004 (303059)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2003 (303061)  
 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 (303062)  
 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: 05/31/2004 (303063)  
 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: 08/31/2002 (176228)  
 Self Report? YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)[G]  
 Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2003 (303064)  
 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: 08/31/2003 (303066)

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 (303067)

Self Report? YES

Classification: Moderate

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

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

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF KENEDY,  
RN102097839

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

**AGREED ORDER**  
**DOCKET NO. 2007-0154-MWD-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Kenedy (the "City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation 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 Agreed Order represents the complete and fully-integrated agreement 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:

**FINDINGS OF FACT**

1. The City owns and operates a wastewater treatment facility located approximately ½ mile east of Highway 72 and Farm-to-Market Road 792, Kenedy, Karnes County, Texas (the "Facility").
2. At the Facility, the City has caused, suffered, allowed, or permitted the discharge of any waste into or adjacent to any water in the State or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.

- During a record review investigation conducted on December 4, 2006, a TCEQ investigator documented that the City failed to comply with the permitted effluent limits for Biological Oxygen Demand (“BOD”), Total Suspended Solids, and Daily Average Flow at Outfall 001A for the monitoring periods ending June 30, 2006, July 31, 2006, and August 31, 2006. (See table below).

Effluent Parameter: Permit Limits

	BOD Max Daily Average (loading) 82 lbs/day	BOD Max Daily Average (concentration) 10 mg/L	Total Suspended Solids Daily Average (loading) 123 lbs/day	Total Suspended Solids Daily Average (concentration) 15 mg/L	Daily Average Flow Max 0.983 million gallons
Month/Year	Outfall 001A	Outfall 001A	Outfall 001A	Outfall 001A	Outfall 001A
June, 2006	115	14	C	C	C
July, 2006	172	22	172	20	1.069
August, 2006	182	49	182	20	1.065

- During a record review investigation conducted on December 4, 2006, a TCEQ investigator documented that the City failed to submit discharge monitoring reports at the intervals specified in the permit. Specifically, the City did not submit the Sludge Report for the period ending on July 31, 2006.
- The City received notice of the violations on or about January 31, 2007.

### CONCLUSIONS OF LAW

- As evidenced by Findings of Fact Nos. 1 and 2, the City is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE § 7.002 and ch. 26 and the rules of the Commission.
- As evidenced by Finding of Fact No. 3, the City has failed to comply with the permitted effluent limits for Biological Oxygen Demand (“BOD”), Total Suspended Solids, and Daily Average Flow at Outfall 001A for the monitoring periods ending June 30, 2006, July 31, 2006, and August 31, 2006, in violation of Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0010746001, Effluent Limitations, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a).

3. As evidenced by Finding of Fact No. 4, the City has failed to submit discharge monitoring reports at the intervals specified in the permit, in violation of TPDES Permit No. WQ0010746001, Sludge Provisions, and 30 TEX. ADMIN. CODE § 305.125(17).
4. 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.
5. An administrative penalty in the amount of twenty-nine thousand four hundred dollars (\$29,400.00) 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-nine thousand four hundred dollars (\$29,400.00) of the administrative penalty shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP"), as defined in Attachment A, incorporated herein by reference. The County'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.

### 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-nine thousand four hundred dollars (\$29,400.00), as set forth in Conclusion of Law No. 5 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. Twenty-nine thousand four hundred dollars (\$29,400.00) of the assessed administrative penalty shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP"). Any administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: City of Kenedy; Docket No. 2007-0154-MWD-E; Enforcement ID No. 32544", 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 Conclusion of Law No. 5, twenty-nine thousand four hundred dollars (\$29,400.00) 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. Administrative penalty payments for any portion of the administrative penalty not offset by a SEP or for any portion of the SEP deemed by the Executive Director as not complete shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: City of Kenedy, Docket No. 2007-0154-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

4. The City shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, the City shall submit the Sludge Report for the monitoring period ending July 31, 2006, in accordance with the requirements of 30 TEX. ADMIN. CODE §§ 319.7(a) and (d) and 305.125(17) and TPDES Permit No. WQ0010746001. The report shall be submitted to:

Compliance Monitoring Team (MC 224)  
Enforcement Division  
Texas Commission on Environmental Quality  
P. O. Box 13087  
Austin, Texas 78711-3097

- b. Within 60 days after the effective date of this Agreed Order, the City shall submit written certification of compliance with the effluent limits of TPDES Permit No. 0010746001. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance, 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 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 Quality Section Manager  
San Antonio Regional Office  
Texas Commission on Environmental Quality  
14250 Judson Road  
San Antonio, Texas 78233-4480

5. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of this Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
6. 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 has 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.
7. 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 Chevron Phillips receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

8. 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.
9. 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.
10. 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.
11. 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.
12. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. Pursuant to 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, 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.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

*Gregory Perdue*

For the Executive Director

2/3/08

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Kenedy. I represent that I am authorized to agree to the attached Agreed Order on behalf of the City of Kenedy, 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 Kenedy 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 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

*Randy Garza*  
Name (printed or typed)

Authorized Representative  
City of Kenedy

Date

12-21-07

Title

Mayor

Attachment A  
Docket Number: 2007-0154-MWD-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** City of Kenedy  
**Penalty Amount:** Twenty-nine thousand four hundred dollars (\$29,400)  
**SEP Offset Amount:** Twenty-nine thousand four hundred dollars (\$29,400)  
**Type of SEP:** Custom (Pre-Approved Concept)  
**Location of SEP:** Karnes County

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

**1. Project Description**

A. Project

The Respondent shall provide first-time sewer service for approximately three low-income individuals currently utilizing septic systems. The project shall include purchasing and installing standard dimensional ratio (SDR) 35 polyvinyl chloride (PVC) sanitary sewer line, a manhole, and other materials as required to complete the work and make it fully operational, as well as pay for subcontractor and engineering costs. The City shall properly decommission and abandon the residents' old septic tanks.

This project shall be done at no cost to the homeowners. The Respondent shall perform this project in accordance with all federal, state and local environmental laws and regulations. The Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs. If the Respondent utilizes City labor to perform the project, labor shall be used after regular work hours or on weekends and shall be reimbursed at an overtime rate.

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

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.

This SEP will provide a discernible environmental benefit by diminishing the potential health threats associated with release of sewage to the environment.

C. Minimum Expenditure

The Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this Attachment A. Respondent understands that completion of this SEP may cost more than the Offset Amount.

2. **Performance Schedule**

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

3. **Reporting**

A. Progress Reports

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

B. Final Report

Within 60 days after completion of the project, the Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;
4. Number of homes actually connected;
5. Map showing specific location of the project area after completion;
6. Photographs of the project; and
7. Any additional information Respondent believes will demonstrate compliance with this Attachment A.

Copies of receipts, checks, invoices, and other documentation verifying appropriate expenditures and the completion of the project must be submitted with the final report.

C. Address

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

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

**4. Additional Information and Access**

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

**5. Failure to Fully Perform**

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

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of an SEP. The payment for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

**6. Publicity**

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include, but are not limited to, advertising, public relations, and press releases.

**7. Clean Texas Program**

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

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

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