

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1984-MWD-E **TCEQ ID:** RN101607596 **CASE NO.:** 35087

RESPONDENT NAME: City of Houston

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input 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	
CASE TYPE:		
<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>SITE WHERE VIOLATION(S) OCCURRED: Beltway Wastewater Treatment Plant, located approximately 1,700 feet north of Bellaire Boulevard and 3,400 feet west of Roark Road, Houston, Harris County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on June 9, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Ms. Pamela Campbell, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4493; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable Bill White, Mayor, City of Houston, P.O. Box 1562, Houston, Texas 77251-1562 Mr. Michael S. Marcotte, P.E., DEE, Director, Public Works and Engineering, P.O. Box 1562, Houston, Texas 77251-1562 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Record Reviews Relating to this Case: October 26, 2007 and December 13, 2007</p> <p>Date of NOE Relating to this Case: November 16, 2007 (NOE)</p> <p>Background Facts: These were routine record reviews.</p> <p>WATER</p> <p>1) Failure to comply with permitted effluent limits for total suspended solids, ammonia nitrogen, and five-day biochemical oxygen demand [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010495111, Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a)(1)].</p> <p>2) Failure to pay the above ground storage tank late fees for Account No. 0006049A [TEX. WATER CODE §§ 5.702 and 26.358(f)].</p>	<p>Total Assessed: \$7,250</p> <p>Total Deferred: \$1,450 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$5,800</p> <p>Total Paid to General Revenue: \$0</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A).</p> <p>2) The Order will also require the Respondent to:</p> <p>a) Within 30 days after the effective date of this Agreed Order, pay all outstanding fees, including any associated penalties and interest; and</p> <p>b) Within 60 days after the effective date of this Agreed Order, submit written compliance with the effluent limits of TPDES Permit No. WQ0010495111, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): TPDES Permit No. WQ0010495111

Attachment A
Docket Number: 2007-1984-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Houston
Payable Penalty Amount:	Five Thousand Eight Hundred Dollars (\$5,800)
SEP Amount:	Five Thousand Eight Hundred Dollars (\$5,800)
Type of SEP:	Pre-approved
Third-Party Recipient:	Armand Bayou Nature Center Coastal Tall Grass Management-Prescribed Burn Program and Prairie Restoration Project
Location of SEP:	Harris 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 pay for the labor and materials costs associated with conducting prescribed burns, removing non-native trees, and for planting native trees and plants.

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 increasing ecosystem functionality. It will contribute to the overall prairie health by suppressing invasive brush species, increasing soil fertility, and promoting plant vigor.

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:

Armand Bayou Nature Center
Attn: Mark Kramer
PO Box 58828
Houston, Texas 77258

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

DATES	Assigned	19-Nov-2007	Screening	7-Dec-2007	EPA Due	29-Jun-2007
	PCW	8-Jan-2008				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Houston	
Reg. Ent. Ref. No.	RN101607596	
Facility/Site Region	12-Houston	Major/Minor Source Major

CASE INFORMATION

Enf./Case ID No.	35087	No. of Violations	2
Docket No.	2007-1984-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Pamela Campbell
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** **\$5,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 45% Enhancement **Subtotals 2, 3, & 7** **\$2,250**

Notes The Respondent has one findings order, one NOV for the same or similar violations, and has three monthly self-reported effluent violations.

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

Notes The Respondent does not meet the culpability criteria.

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

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

Notes The Respondent does not meet the good faith criteria.

Total EB Amounts \$211 **0% Enhancement*** **Subtotal 6** **\$0**
Approx. Cost of Compliance \$2,000 ***Capped at the Total EB \$ Amount**

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$7,250**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$7,250**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$7,250**

DEFERRAL 20% Reduction **Adjustment** **-\$1,450**

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

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY **\$5,800**

Screening Date 7-Dec-2007

Docket No. 2007-1984-MWD-E

PCW

Respondent City of Houston

Policy Revision 2 (September 2002)

Case ID No. 35087

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN101607596

Media [Statute] Water Quality

Enf. Coordinator Pamela Campbell

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>)	4	20%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
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) 45%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent has one findings order, one NOV for the same or similar violations, and has three monthly self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 45%

Screening Date 7-Dec-2007

Docket No. 2007-1984-MWD-E

PCW

Respondent City of Houston

Policy Revision 2 (September 2002)

Case ID No. 35087

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN101607596

Media [Statute] Water Quality

Enf. Coordinator Pamela Campbell

Violation Number

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), TPDES Permit No. WQ0010495111, Effluent Limitations and Monitoring Requirements No. 1, and Tex. Water Code § 26.121(a)(1)

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

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text" value="25%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

A simplified model was utilized to evaluate the values for ammonia nitrogen, 5-day biochemical oxygen demand, and flow to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. The amounts discharged at the time of the violations were insignificant and did not exceed levels protective of human health or environmental receptors. Total suspended solids were also evaluated.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

Two quarterly events are recommended.

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 Houston
Case ID No. 35087
Reg. Ent. Reference No. RN101607596
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$2,000	1-Mar-2007	1-Sep-2008	1.5	\$10	\$201	\$211
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

This is the estimated cost to take measures to bring the Facility back into compliance. The date required is the date that the violations first occurred and the final date is the anticipated 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

\$2,000

TOTAL

\$211

Screening Date 7-Dec-2007

Docket No. 2007-1984-MWD-E

PCW

Respondent City of Houston

Policy Revision 2 (September 2002)

Case ID No. 35087

PCW Revision November 6, 2007

Reg. Ent. Reference No. RN101607596

Media [Statute] Water Quality

Enf. Coordinator Pamela Campbell

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

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 Houston
Case ID No. 35087
Reg. Ent. Reference No. RN101607596
Media Water Quality
Violation No. 2

Percent Interest:	5.0
Years of Depreciation	15

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

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

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

Compliance History

Customer/Respondent/Owner-Operator:	CN600128995	City of Houston	Classification: AVERAGE	Rating: 2.33
Regulated Entity:	RN101607596	BELTWAY WWTP	Classification: AVERAGE	Site Rating: 7.56
ID Number(s):	WASTEWATER	PERMIT	WQ0010495111	
	WASTEWATER	PERMIT	TX0065307000	
	WASTEWATER	PERMIT	TX0065307	
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG3782B	
	STORMWATER	PERMIT	TXR05K231	
	WASTEWATER LICENSING	LICENSE	WQ0010495111	
Location:	APPROX. 1,700 FEET N OF BELLAIRE BLVD AND 3,400 FEET WEST OF ROARK RD IN HOUSTON, HARRIS COUNTY, TX			Rating Date: 9/1/2007 Repeat Violator: NO
TCEQ Region:	REGION 12 - HOUSTON			
Date Compliance History Prepared:	November 26, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	November 26, 2002 to November 26, 2007			
TCEQ Staff Member to Contact for Additional Information	Regarding this Compliance History			
Name:	Pamela Campbell	Phone:	512 239-4493	

Site Compliance History Components

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- | | |
|----------------------------|--|
| Effective Date: 11/24/2005 | ADMINORDER 2002-0555-MWD-E |
| Classification: Major | |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5) |
| Rqmt Prov: | 10495-111 PERMIT |
| Description: | Failure to operate and maintain the collection system to prevent authorized discharges of untreated domestic wastewater. |
| Classification: Moderate | |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5) |
| Rqmt Prov: | Effluent Limits & Monitoring Req. No. 4 PERMIT
Operational Requirements No. 1 PERMIT
Permit Conditions No. 2(d) PERMIT
Permit Conditions No. 2.g. PERMIT |
| Description: | Failure to prevent the discharge of algae and sludge from the clarifier weir onto the ground. |
| Classification: Moderate | |
| Citation: | 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5) |
| Rqmt Prov: | 10495-111 PERMIT
Final Eff. Limitations & Mon. Req. No. 4 PERMIT
Operational Requirements No. 1 PERMIT
Permit Conditions No. 2.d. and 2.g. PERMIT |
| Description: | Failure to prevent the discharge and accumulation of white foam at the outfall. |
| Classification: Moderate | |
| Citation: | 30 TAC Chapter 317 317.3(e)(5) |
| Description: | Failure to telemeter the alarm system to a facility where 24-hour attendance is available. |
| Classification: Moderate | |
| Citation: | 30 TAC Chapter 317 317.7(h) |
| Description: | Failure to provide personal gas detectors for entry into the dry well. |
| Classification: Moderate | |
| Citation: | 30 TAC Chapter 317 317.7(e) |
| Description: | Failure to provide signage for entry into the dry well, as defined in 30 TAC. |
| Classification: Moderate | |
| Citation: | 30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5) |
| Rqmt Prov: | Permit Conditions 2d PERMIT |
| Description: | Failure to operate the facility so that algae and sludge do not accumulate in the clarifier weir trough. |
- 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 12/23/2002 (193402)

2	01/27/2003	(193406)
3	02/25/2003	(193365)
4	03/25/2003	(193368)
5	04/23/2003	(193373)
6	05/20/2003	(193377)
7	07/21/2003	(112319)
8	07/21/2003	(193385)
9	08/20/2003	(310324)
10	09/25/2003	(310326)
11	10/22/2003	(310328)
12	11/21/2003	(310329)
13	12/29/2003	(310330)
14	01/21/2004	(310331)
15	02/23/2004	(310314)
16	03/22/2004	(310316)
17	04/20/2004	(310317)
18	06/22/2004	(310319)
19	06/22/2004	(310321)
20	07/22/2004	(358147)
21	08/19/2004	(358148)
22	09/21/2004	(358149)
23	10/22/2004	(358150)
24	11/19/2004	(358151)
25	12/23/2004	(385189)
26	01/31/2005	(385190)
27	02/22/2005	(385187)
28	03/21/2005	(385188)
29	04/26/2005	(423199)
30	05/20/2005	(423200)
31	06/23/2005	(423201)
32	07/20/2005	(444062)
33	08/22/2005	(444063)
34	08/30/2005	(406036)
35	09/14/2005	(431412)
36	09/20/2005	(444064)
37	10/20/2005	(474371)
38	11/28/2005	(474372)
39	12/22/2005	(474373)
40	01/24/2006	(474374)
41	02/21/2006	(474369)
42	03/23/2006	(474370)
43	04/20/2006	(502219)
44	05/25/2006	(502220)
45	06/22/2006	(502221)
46	07/20/2006	(502222)
47	08/22/2006	(524562)
48	09/21/2006	(524563)
49	10/20/2006	(524564)
50	11/17/2006	(549525)
51	12/14/2006	(549526)
52	01/18/2007	(549527)
53	02/19/2007	(549524)
54	03/19/2007	(583359)
55	04/17/2007	(583360)
56	05/17/2007	(583361)
57	06/18/2007	(583362)
58	07/19/2007	(583363)
59	08/31/2007	(608383)
60	09/18/2007	(608384)
61	10/18/2007	(608385)
62	11/05/2007	(573962)
63	11/16/2007	(599226)

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

Date:	11/30/2004	(385189)	Classification:	Moderate
Self Report? YES				
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
	TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	03/31/2007	(583360)	Classification:	Moderate
Self Report? YES				
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)			
	TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date:	07/31/2007	(608383)	Classification:	Moderate
Self Report?	YES			
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)			
	30 TAC Chapter 305, SubChapter F 305.125(1)			

Description:	Failure to meet the limit for one or more permit parameter		
Date: 11/05/2007	(573962)		
Self Report? NO		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Rqmt Prov:	PERMIT Test Procedures		
Description:	Failure to provide for accurate flow measurement.		
Self Report? NO		Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Rqmt Prov:	PERMIT Effluent Limitations and Monitoring		
Description:	Failure to ensure that visible foam is not discharged to the receiving stream.		
Self Report? NO		Classification:	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.7(e)		
Description:	Failure to report the correct pH values on the Discharge Monitoring Reports (DMRs) for the month of October 2006.		

- 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

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF HOUSTON
RN101607596**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1984-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Houston ("the City") under the authority of TEX. WATER CODE chs. 5, 7, and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates the Beltway wastewater treatment facility located approximately 1,700 feet north of Bellaire Boulevard and 3,400 feet west of Roark Road in Houston, Harris County, Texas (the "Facility").
2. The City has discharged sewage into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about November 21, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seven Thousand Two Hundred Fifty Dollars (\$7,250) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Four Hundred Fifty Dollars (\$1,450) is deferred contingent upon

the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty. Five Thousand Eight Hundred Dollars (\$5,800) shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to comply with its permitted effluent limits as shown in the following table, in violation of 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010495111, Effluent Limitations and Monitoring Requirements No. 1, and TEX. WATER CODE § 26.121(a)(1), as documented during a record review conducted on October 26, 2007.

	TSS Daily Average Loading	TSS Daily Max.	TSS Daily Average Conc.	NH ₃ -N Daily Average Loading	NH ₃ -N Daily Average Conc.	NH ₃ -N Daily Average Conc.	NH ₃ -N Daily Max.	BOD ₅ Daily Max.
<i>Month /Year</i>	1669 lbs/day	40 mg/L	15 mg/L	334 lbs/day	3 mg/L (April – October)	5 mg/L (November – March)	10 mg/L	25 mg/L
Mar-07	1832	120	18	c	n/a	c	19.5	c
Jul-07	c	288	18	427.5	4.8	n/a	c	27

Max = Maximum

Conc. = concentration

mg/L = milligrams per liter

lbs/day = pounds per day

2. Failed to pay the above ground storage tank late fees for Account No. 0006049A, in violation of TEX. WATER CODE §§ 5.702 and 26.358(f), as documented during a record review conducted on December 13, 2007.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Houston, Docket No. 2007-1984-MWD-E" to:

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

2. The City shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Five Thousand Eight Hundred Dollars (\$5,800) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the City shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, pay all outstanding fees, including any associated penalties and interest and with the notation "City of Houston – Account No. 0006049A", 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

- b. Within 60 days after the effective date of this Agreed Order, submit written compliance with the effluent limits of TPDES Permit No. WQ0010495111, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The

certification shall include detailed supporting documentation including 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 fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

4. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

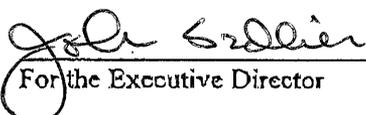
7. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

City of Houston
DOCKET NO. 2007-1984-MWD-E
Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

7/2/2008
Date

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

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

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

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



Signature

6-23-08
Date

MICHAEL S. MARCOTTE, P. E., DEE
Name (Printed or typed)
Authorized Representative of 
City of Houston

Director, Public Works and Engineering
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.

Attachment A
Docket Number: 2007-1984-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Houston
Payable Penalty Amount:	Five Thousand Eight Hundred Dollars (\$5,800)
SEP Amount:	Five Thousand Eight Hundred Dollars (\$5,800)
Type of SEP:	Pre-approved
Third-Party Recipient:	Armand Bayou Nature Center Coastal Tall Grass Management-Prescribed Burn Program and Prairie Restoration Project
Location of SEP:	Harris 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 pay for the labor and materials costs associated with conducting prescribed burns, removing non-native trees, and for planting native trees and plants.

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 increasing ecosystem functionality. It will contribute to the overall prairie health by suppressing invasive brush species, increasing soil fertility, and promoting plant vigor.

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.

City of Houston
Agreed Order - Attachment A

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:

Armand Bayou Nature Center
Attn: Mark Kramer
PO Box 58828
Houston, Texas 77258

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.

