

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1016-MWD-E **TCEQ ID:** RN102806411 **CASE NO.:** 33939

RESPONDENT NAME: City of Sonora

ORDER TYPE:		
<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	
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: City of Sonora WWTP, located south of Sonora and south of Dry Devils River, approximately 6,000 feet south and 2,000 feet west of the intersection of U.S. Highway 277 and 290, Sutton 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 May 19, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768 TCEQ Enforcement Coordinator: Ms. Heather Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 761-3048; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: The Honorable Gloria G. Lopez, Mayor, City of Sonora, 201 East Main Street, Sonora, Texas 76950 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 checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 22, 2007</p> <p>Date of NOV/NOE Relating to this Case: June 21, 2007 (NOE)</p> <p>Background Facts: This was a routine investigation of an unauthorized discharge resulting in a fish kill of approximately 2,844 fish.</p> <p>WATER</p> <p>Failed to prevent the unauthorized discharge of raw and/or partially treated wastewater into water in the state [Texas Pollutant Discharge Elimination System Permit No. WQ0010545001, Permit Conditions No. 2, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a)].</p>	<p>Total Assessed: \$8,950</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$8,950</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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: Environmental receptors have been exposed to pollutants which exceed levels that are protective. Also, the Respondent has three repeated enforcement actions for the same violation.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent ceased the unauthorized discharge, restored power, pumped and hauled wastewater for treatment, and remediated the affected areas by April 27, 2007.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p>

Additional ID No(s): WQ0010545001, TPDES 0023191

Attachment A
Docket Number: 2007-1016-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Sonora
Payable Penalty Amount: Eight Thousand Nine Hundred Fifty Dollars (\$8,950)
SEP Amount: Eight Thousand Nine Hundred Fifty Dollars (\$8,950)
Type of SEP: Pre-approved
Third-Party Recipient: Keep Texas Beautiful
Location of SEP: Sutton County

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

1. Project Description

A. Project

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

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of waste which will help prevent human health concerns associated with illegally dumped waste.

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:

Katie Sternberg, Program Manager
Keep Texas Beautiful
P.O. Box 2251
Austin, Texas 78768

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

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

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision May 25, 2007

TCEQ

DATES	Assigned	25-Jun-2007	Screening	26-Jun-2007	EPA Due	
	PCW	29-Aug-2007				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Sonora
Reg. Ent. Ref. No.	RN102806411
Facility/Site Region	8-San Angelo
Major/Minor Source	Minor

CASE INFORMATION				
Enf./Case ID No.	33939	No. of Violations	1	
Docket No.	2007-1016-MWD-E	Order Type	Findings	
Media Program(s)	Water Quality	Enf. Coordinator	Laurie Eaves	
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
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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.

Compliance History	104% Enhancement	Subtotals 2, 3, & 7	\$5,200
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Notes
The Respondent self-reported 16 months of effluent quality violations, was issued four NOV's with the same or similar type of violations, and two NOV's without the same or similar type of violations.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes
The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	25% Reduction	Subtotal 5	\$1,250
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	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes
The Respondent returned to compliance on April 27, 2007 by ceasing the discharge, restoring power, pumping and hauling wastewater for treatment, and remediating the affected areas.

Total EB Amounts	\$10	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$15,000	<i>*Capped at the Total EB \$ Amount</i>		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$8,950
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OTHER FACTORS AS JUSTICE MAY REQUIRE		Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount	\$8,950
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$8,950
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DEFERRAL	0% Reduction	Adjustment	\$0
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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.

PAYABLE PENALTY	\$8,950
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Screening Date 26-Jun-2007
Respondent City of Sonora
Case ID No. 33939
Reg. Ent. Reference No. RN102806411
Media [Statute] Water Quality
Enf. Coordinator Laurie Eaves

Docket No. 2007-1016-MWD-E

PCW

Policy Revision 2 (September 2002)
 PCW Revision May 25, 2007

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)	20	100%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of 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) 104%

>> **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 self-reported 16 months of effluent quality violations, was issued four NOVs with the same or similar type of violations, and two NOVs without the same or similar type of violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 104%

Screening Date 26-Jun-2007	Docket No. 2007-1016-MWD-E	PCW
Respondent City of Sonora		<small>Policy Revision 2 (September 2002)</small>
Case ID No. 33939		<small>PCW Revision May 25, 2007</small>
Reg. Ent. Reference No. RN102806411		
Media [Statute] Water Quality		
Enf. Coordinator Laurie Eaves		
Violation Number <input type="text" value="1"/>		
Rule Cite(s)	TPDES Permit No. WQ0010545001, Permit Conditions No. 2, 30 Tex. Admin. Code § 305.125(1), and Tex. Water Code § 26.121(a)	
Violation Description	Failed to prevent the unauthorized discharge of raw and/or partially treated wastewater into water in the state. Specifically, on April 22, 2007, an unauthorized discharge of approximately 290,000 gallons of raw and/or partially treated wastewater was discharged into the Dry Devils River due to a mechanical power failure, resulting in a fish kill of approximately 2,844 fish.	
	Base Penalty	<input type="text" value="\$10,000"/>

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

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

Matrix Notes
 Human health or the environment has been exposed to pollutants which exceed protective levels as a result of this violation.

Adjustment

Violation Events

Number of Violation Events Number of violation days

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

Violation Base Penalty

One monthly event is recommended from the date of the investigation (April 22, 2007) through the date of compliance (April 27, 2007).

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Sonora
Case ID No. 33939
Reg. Ent. Reference No. RN102806411
Media Water Quality
Violation No. 1

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	\$15,000	22-Apr-2007	27-Apr-2007	0.0	\$10	n/a	\$10
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to cease the discharge, restore power, pump and haul wastewater for treatment, and remediate the affected areas. Date Required is the investigation date. Final Date is the 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

\$15,000

TOTAL

\$10

Compliance History

Customer/Respondent/Owner-Operator:	CN600247993	City of Sonora	Classification: AVERAGE	Rating: 2.19
Regulated Entity:	RN102806411	CITY OF SONORA WWTP	Classification: AVERAGE	Site Rating: 1.74
ID Number(s):	WASTEWATER	PERMIT		WQ0010545001
	WASTEWATER	PERMIT		TPDES0023191
	WASTEWATER	PERMIT		TX0023191
	WASTEWATER LICENSING	LICENSE		WQ0010545001
Location:	south of Sonora and south of Dry Devils River, approximately 6,000 feet south and 2,000 feet west of the intersection of U.S. Highway 277 and 290 in Sutton County, Texas			Rating Date: September 01 06 Repeat Violator: NO
TCEQ Region:	REGION 08 - SAN ANGELO			
Date Compliance History Prepared:	June 25, 2007			
Agency Decision Requiring Compliance	Enforcement			
Compliance Period:	June 25, 2002 to June 25, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	<u>Jorge Ibarra, P.E.</u>	Phone:	<u>(817) 588-5890</u>	

Site Compliance History Components

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

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- | | | |
|----|------------|----------|
| 1 | 07/31/2002 | (246719) |
| 2 | 08/08/2002 | (167244) |
| 3 | 08/08/2002 | (167248) |
| 4 | 08/09/2002 | (167228) |
| 5 | 08/09/2002 | (167231) |
| 6 | 08/09/2002 | (167236) |
| 7 | 08/26/2002 | (167252) |
| 8 | 09/26/2002 | (167255) |
| 9 | 10/21/2002 | (167258) |
| 10 | 12/30/2002 | (167266) |
| 11 | 02/28/2003 | (167229) |
| 12 | 02/28/2003 | (167262) |
| 13 | 02/28/2003 | (167270) |
| 14 | 03/17/2003 | (167232) |
| 15 | 04/16/2003 | (167237) |
| 16 | 05/20/2003 | (167241) |
| 17 | 06/16/2003 | (167245) |

18 07/14/2003 (167249)
 19 07/21/2003 (143107)
 20 08/18/2003 (299203)
 21 09/30/2003 (299205)
 22 10/09/2003 (299207)
 23 11/21/2003 (299208)
 24 12/22/2003 (299209)
 25 02/17/2004 (299192)
 26 03/10/2004 (299210)
 27 03/13/2004 (299195)
 28 04/19/2004 (299196)
 29 05/17/2004 (299198)
 30 06/10/2004 (299200)
 31 07/14/2004 (353630)
 32 08/16/2004 (353631)
 33 09/13/2004 (353632)
 34 09/27/2004 (334861)
 35 10/21/2004 (353633)
 36 12/13/2004 (353634)
 37 12/28/2004 (353635)
 38 01/21/2005 (382724)
 39 02/22/2005 (382722)
 40 03/11/2005 (382723)
 41 05/13/2005 (420530)
 42 05/31/2005 (393923)
 43 06/21/2005 (420531)
 44 09/02/2005 (441562)
 45 09/02/2005 (441563)
 46 10/11/2005 (441564)
 47 10/27/2005 (441565)
 48 11/22/2005 (469899)
 49 12/08/2005 (469898)
 50 12/27/2005 (469900)
 51 01/30/2006 (469901)
 52 02/24/2006 (469896)
 53 03/23/2006 (469897)
 54 04/28/2006 (499106)
 55 05/15/2006 (499107)
 56 06/23/2006 (499108)
 57 07/24/2006 (521151)
 58 08/14/2006 (521152)
 59 09/18/2006 (521153)
 60 02/15/2007 (540169)
 61 03/02/2007 (542866)
 62 06/21/2007 (558473)

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

Date: 07/31/2002 (246719)
 Self Report? NO Classification Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Self Report? NO Classification Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Self Report? NO Classification Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Date: 07/21/2003 (143107)
 Self Report? NO Classification Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 319, SubChapter A 319.11(c)
 Description: Failure to provide a known reference point to check the accuracy of the flow
 meter.
 Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: PERMIT PPIV.5
 Description: Failure to calibrate the flow meter at least annually to ensure accurate measurements.
 Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)
 Description: Failure to properly preserve ammonia-nitrogen (NH3-N) samples.
 Self Report? NO Classification Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)
 Description: Failure to maintain a temperature log for the refrigerator used to store composite samples.
 Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 330, SubChapter F 330.136(b)(7)
 Rqmt Prov: PERMIT PPVII.III.F
 Description: Failure to conduct Paint Filter Liquids Test for sewage sludge before disposal in Municipal Solid Waste Landfill.
 Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: PERMIT PPVII.III.G
 Description: Failure to submit an annual report of sewage sludge disposed in a Municipal Solid Waste Landfill to the TCEQ Region Office (MC Region 8) and Water Quality Management Information Systems Team (MC 224) of the Enforcement Division by September 1, 2002.
 Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: PERMIT PPVIII(5)(f)
 Description: Failure to submit the results of the soil sample analyses to the Region Office during September 2002.
 Date: 03/31/2004 (299196)
 Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)[G]
 Description: Failure to meet the limit for one or more permit parameter
 Date: 09/27/2004 (334861)
 Self Report? NO Classification Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: PERMIT PPV.2.d
 Description: Failure to properly manage sewage sludge when cleaning out the sludge dry
 Self Report? NO Classification Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 Rqmt Prov: PERMIT PPVI.1
 Description: Failure to properly maintain the chlorine contact chamber so as to prevent the excessive accumulation of solids.
 Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 TWC Chapter 26 26.121
 Rqmt Prov: PERMIT PPV.2.g
 Description: Failure to prevent an unauthorized discharge from the wastewater treatment plant to the Dry Devils River.
 Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: PERMIT PPII.2
 Description: Failure to meet final effluent minimum limitation for total chlorine residual for a grab sample collected during the investigation.
 Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: PERMIT PPII.3
 Description: Failure to meet permit limitation for pH minimum for the month of March
 Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.5(b)
 Rqmt Prov: PERMIT PPII.6
 Description: Failure to monitor for the parameter of dissolved oxygen at the frequency required by the permit.
 Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

30 TAC Chapter 317 317.4(c)
 Rqmt Prov: PERMIT PPII.5
 Description: Failure to provide a means to measure effluent flow.
 Date: 10/31/2004 (353634)
 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: 12/31/2004 (382724)
 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: 05/31/2005 (393923)
 Self Report? NO Classification Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121[G]
 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 Rqmt Prov: PERMIT PPV.2.g
 Description: Failure to properly maintain the facility's collection system so as to prevent
 unauthorized discharges of untreated wastewater.
 Date: 06/30/2005 (441562)
 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: 07/31/2005 (441563)
 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: 08/31/2005 (441564)
 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: 09/30/2005 (441565)
 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: 10/03/2005 (404157)
 Self Report? NO Classification Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)
 30 TAC Chapter 305, SubChapter F 305.125(11)(C)[G]
 Rqmt Prov: PERMIT PPVII.III.G
 Description: Failure to submit an annual report of sewage sludge disposed in a Municipal
 Solid Waste Landfill to the TCEQ Region Office (MC Region 8) and Water
 Quality Management Information Systems Team (MC 224) of the
 Enforcement Division by September 1, 2004.
 Self Report? NO Classification Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 Rqmt Prov: PERMIT PPVI.1
 Description: Failure to properly operate and maintain the chlorination system.
 Self Report? NO Classification Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 TWC Chapter 26 26.121
 Rqmt Prov: PERMIT PPII.4
 PERMIT PPV.2.d.
 PERMIT PPVI.1
 Description: Failure to prevent an unauthorized discharge of sludge into the receiving
 Self Report? NO Classification Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Rqmt Prov: PERMIT PPII.2

Description: Failure to meet final effluent minimum limitation for total chlorine residual for a grab sample collected during the investigation.
Self Report? NO Classification Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT PPII.2

Description: Failure to meet final effluent maximum limitation for total chlorine residual.
Self Report? NO Classification Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.5(b)
Rqmt Prov: PERMIT PPII.2

Description: Failure to monitor/record total chlorine residual at the required frequency.
Date: 10/31/2005 (469899)
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: 11/30/2005 (469900)
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: 12/31/2005 (469901)
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: 02/28/2006 (469897)
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: 03/31/2006 (499106)
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: 04/30/2006 (499107)
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: 05/31/2006 (499108)
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 (521151)
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 (521153)
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: 02/15/2007 (540169)
Self Report? NO Classification Minor

Citation: 30 TAC Chapter 317 317.4(a)(8)
Description: Failure to have the potable water supply back flow prevention device checked annually.
Self Report? NO Classification Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT PPIV.5
Description: Failure to have the flow meters calibrated at least annually.

Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Rqmt Prov:	PERMIT PPII.6		
Description:	Failure to meet the minimum dissolved oxygen (DO) permit limit.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.5(a)		
Rqmt Prov:	PERMIT PPII.5		
Description:	Failure to collect all final effluent samples at the correct location.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Rqmt Prov:	PERMIT PPII.1		
Description:	Failure to collect the correct sample type for ammonia-nitrogen (NH3-N) monitoring.		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 319, SubChapter A 319.7(c)		
Description:	Failure to maintain calibration records for effluent monitoring		

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 THE
CITY OF SONORA
RN102806411**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1016-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding the City of Sonora (“the City”) under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City presented this agreement to the Commission.

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

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

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

I. FINDINGS OF FACT

1. The City owns and operates a wastewater treatment facility located south of Sonora and south of Dry Devils River, approximately 6,000 feet south and 2,000 feet west of the intersection of U.S. Highway 277 and 290 in Sutton 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. During an investigation on April 22, 2007, TCEQ staff documented that the City failed to prevent the unauthorized discharge of raw and/or partially treated wastewater into water in the state. Specifically, on April 22, 2007, an unauthorized discharge of approximately 290,000 gallons of raw and/or partially treated wastewater was discharged into the Dry Devils River due to a mechanical power failure, resulting in a fish kill of approximately 2,844 fish.
4. The City received notice of the violations on June 26, 2007.
5. The Executive Director recognizes that the City ceased the unauthorized discharge, restored power, pumped and hauled wastewater for treatment, and remediated the affected areas by April 27, 2007.

II. CONCLUSIONS OF LAW

1. The City is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the City failed to prevent the unauthorized discharge of raw and/or partially treated wastewater into water in the state, in violation of Texas Pollutant Discharge Elimination System Permit No. WQ0010545001, Permit Conditions No. 2, 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a).
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Eight Thousand Nine Hundred Fifty Dollars (\$8,950) 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. Eight Thousand Nine Hundred Fifty Dollars (\$8,950) shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP").

III. ORDERING PROVISIONS

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

1. The City is assessed an administrative penalty in the amount of Eight Thousand Nine Hundred Fifty Dollars (\$8,950) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here.

Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Sonora, Docket No. 2007-1016-MWD-E" to:

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

2. The City shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Conclusions of Law, Paragraph 4, Eight Thousand Nine Hundred Fifty Dollars (\$8,950) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

9. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

City of Sonora
DOCKET NO. 2007-1016-MWD-F
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Signature]
For the Executive Director

6/2/2008
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Sonora. I am authorized to agree to the attached Agreed Order on behalf of the City of Sonora, 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 Sonora waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

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

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

Virgil A. Polocsek
Signature

5-20-08 5/20/08
Date

Virgil Polocsek
Name (Printed or typed)
Authorized Representative of the
City of Sonora

Mayor
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: 2007-1016-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Sonora
Payable Penalty Amount: Eight Thousand Nine Hundred Fifty Dollars (\$8,950)
SEP Amount: Eight Thousand Nine Hundred Fifty Dollars (\$8,950)
Type of SEP: Pre-approved
Third-Party Recipient: Keep Texas Beautiful
Location of SEP: Sutton County

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

1. Project Description

A. Project

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

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of waste which will help prevent human health concerns associated with illegally dumped waste.

Appendix

Table 1. Summary of the data used in the study.

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Table 1. Summary of the data used in the study. The table provides a detailed overview of the data sources, including the number of participants, the duration of the study, and the specific variables measured. It also outlines the methods used for data collection and analysis, ensuring transparency and reproducibility of the research findings.

Table 1. Summary of the data used in the study.

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Table 1. Summary of the data used in the study. This section details the demographic characteristics of the participants, such as age, gender, and education level. It also describes the experimental conditions and the specific tasks performed during the study, providing context for the data presented in the table.

Table 1. Summary of the data used in the study. The table includes information on the data processing and analysis procedures, including the software used and the statistical methods applied. This ensures that the results are based on rigorous and standardized analytical techniques.

Table 1. Summary of the data used in the study. This part of the table provides a breakdown of the data by experimental condition, allowing for a comparison of results across different groups and treatments.

Table 1. Summary of the data used in the study.

Table 1. Summary of the data used in the study. The table concludes with a summary of the key findings and their implications for the field of study, highlighting the significance of the results and the potential for future research.

Table 1. Summary of the data used in the study.

Table 1. Summary of the data used in the study. This section provides a final overview of the data and its contribution to the overall research objectives, emphasizing the value of the data for understanding the phenomena being studied.

Table 1. Summary of the data used in the study. The table also includes information on the data storage and access policies, ensuring that the data is securely stored and accessible to authorized personnel.

Table 1. Summary of the data used in the study. This part of the table provides a final summary of the data and its contribution to the overall research objectives, emphasizing the value of the data for understanding the phenomena being studied.

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:

Katie Sternberg, Program Manager
Keep Texas Beautiful
P.O. Box 2251
Austin, Texas 78768

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

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

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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

