EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1407-MWD-E **TCEQ ID:** RN103137949 **CASE NO.:** 34617

RESPONDENT NAME: City of San Augustine

ORDER TYPE:		
_X_1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
_X_WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: City of San Augustine Wastewater Treatment Plant, located approximately 5,000 feet northeast of the intersection of U.S. Highway 96 and Farm-to-Market Road 147 in San Augustine County

TYPE OF OPERATION: Wastewater treatment plant

SMALL BUSINESS: ____ **Yes** _X_ **No**

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired on June 16, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768
TCEQ Enforcement Coordinator: Ms. Heather Brister, Enforcement Division, Enforcement Team I, MC R-09, (254) 761-3034, Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171
Respondent: Mr. James Lyons, City Manager, City of San Augustine, 301 South Harrison, San Augustine, Texas 75972
The Honorable Leroy Hughes, Mayor, City of San Augustine, 301 South Harrison, San Augustine, Texas 75972
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: ___ Complaint ___ Routine ___ Enforcement Follow-up _X_ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** July 25, 2007 **Date of NOV/NOE Relating to this Case** August 21, 2007 (NOE) **Background Facts:** This was a records review. **WATER** Failure to comply with the permitted effluent limits for dissolved oxygen, ammonia nitrogen, flow, and chlorine [30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010268001, Effluent Limitations and Monitoring Requirements No. 1, 2, and 6].	**Total Assessed:** $5,200 **Total Deferred:** $1,040 _X_ Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $4,160 **Total Paid to General Revenue:** $0 **Site Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Person Compliance History Classification** __ **High** _X_ **Average** __ **Poor** **Major Source:** ___ Yes _X_ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** 1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A) 2) The Order will also require the Respondent to submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010268001 within 30 days after the effective date of this Agreed Order. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance.

Additional ID No(s).: WQ0010268001

Attachment A
Docket Number: 2007-1407-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**City of San Augustine**
Payable Penalty Amount:	**Four Thousand One Hundred Sixty Dollars ($4,160)**
SEP Amount:	**Four Thousand One Hundred Sixty Dollars ($4,160)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Water or Wastewater Treatment Assistance**
Location of SEP:	**San Augustine 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 Third-Party Recipient shall repair or replace failing water systems or on-site wastewater systems for low income homeowners. The Third-Party Recipient shall use SEP funds to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems. The Third-Party recipient shall use a consistent and documented system for determining eligible participants.

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 protecting water sources for drinking, recreation, and wildlife from contamination.

C. Minimum Expenditure

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

2. Performance Schedule

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

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

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

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

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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

Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002) — *PCW Revision November 17, 2006*

TCEQ

DATES						
Assigned	29-Aug-2007					
PCW	13-Sep-2007	Screening	12-Sep-2007	EPA Due		

RESPONDENT/FACILITY INFORMATION

Respondent	City of San Augustine		
Reg. Ent. Ref. No.	RN103137949		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	34617	No. of Violations	1
Docket No.	2007-1407-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Deana Holland
Multi-Media		EC's Team	EnforcementTeam 1
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* $2,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 165% Enhancement — *Subtotals 2, 3, & 7* $3,300

Notes: A 165% enhancement is recommended for having 28 NOVs for self-reported effluent violations, one NOV with same or similar violations, and one 1660 Order within the last five years.

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

Notes: The Respondent does not meet the culpability criteria.

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

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

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

0% Enhancement* — *Subtotal 6* $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$396
Approx. Cost of Compliance	$5,000

SUM OF SUBTOTALS 1-7 — *Final Subtotal* $5,300

OTHER FACTORS AS JUSTICE MAY REQUIRE — -2% — *Adjustment* -$100

Reduces or enhances the Final Subtotal by the indicated percentage. *(Enter number only; e.g. -30 for -30%.)*

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

Final Penalty Amount $5,200

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* $5,200

DEFERRAL — 20% Reduction — *Adjustment* -$1,040

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 $4,160

Screening Date 12-Sep-2007 **Docket No.** 2007-1407-MWD-E **PCW**

Respondent City of San Augustine

Case ID No. 34617

Reg. Ent. Reference No. RN103137949

Media [Statute] Water Quality

Enf. Coordinator Deana Holland

Policy Revision 2 (September 2002)

PCW Revision November 17, 2006

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*)	29	145%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

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

Adjustment Percentage (Subtotal 2) 165%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

A 165% enhancement is recommended for having 28 NOVs for self-reported effluent violations, one NOV with same or similar violations, and one 1660 Order within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 165%

Screening Date 12-Sep-2007 **Docket No.** 2007-1407-MWD-E **PCW**

Respondent City of San Augustine *Policy Revision 2 (September 2002)*

Case ID No. 34617 *PCW Revision November 17, 2006*

Reg. Ent. Reference No. RN103137949

Media [Statute] Water Quality

Enf. Coordinator Deana Holland

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), TPDES Permit No. WQ0010268001, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6

Violation Description Failed to comply with the permitted effluent limits as documented during a record review conducted on July 25, 2007. See attached effluent violation table.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Dissolved oxygen, total chlorine residual, and flow were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 2 | 182 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $2,000

Two quarterly events are recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $396

Statutory Limit Test

Violation Final Penalty Total $5,200

This violation Final Assessed Penalty (adjusted for limits) $5,200

Economic Benefit Worksheet

Respondent City of San Augustine
Case ID No. 34617
Reg. Ent. Reference No. RN103137949
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)	$5,000	1-Oct-2006	1-May-2008	1.6	$396	n/a	$396
Notes for DELAYED costs	Estimated costs of evaluating the causes of the effluent noncompliances. Date required is the beginning of the effluent noncompliances and the final date is the projected 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: $5,000

TOTAL: $396

Effluent Violation Table City of San Augustine TPDES Permit No. WQ0010268001 Docket No. 2007-1407-MWD-E						
Permitted Effluent Limits	**Monitoring Period End Date**					
	10/31/2006	11/30/2006	12/31/2006	01/31/2007	02/28/2007	03/31/2007
Dissolved Oxygen Minimum 5.0 mg/L	2.9	c	4.6	c	c	c
Ammonia Nitrogen Daily Average Loading 15 lbs/day	c	c	c	c	17.988	c
Ammonia Nitrogen Daily Average Concentration 2 mg/L	c	c	c	c	4.09	3.118
Flow Daily Maximum .90 MGD	c	c	1.119290	1.499000	c	c
Total Minimum Chlorine Residual 1.0 mg/L	0.0	0.8	0.2	0.3	c	c

mg/L = milligrams per liter	Lbs/day = pounds per day	MGD = million gallons per day C = Compliant

Compliance History

Customer/Respondent/Owner-Operator:	CN600630289	City of San Augustine	Classification: AVERAGE	Rating: 5.81
Regulated Entity:	RN103137949	CITY OF SAN AUGUSTINE	Classification: AVERAGE	Site Rating: 8.15

ID Number(s):	WASTEWATER	PERMIT	WQ0010268001
	WASTEWATER	PERMIT	TPDES0022349
	WASTEWATER	PERMIT	TX0022349
	WASTEWATER LICENSING	LICENSE	WQ0010268001

Location:	Located approximately 5,000 feet northeast of the intersection of U.S. Highway 96 and Farm-to-Market Road 147 in San Augustine County, Texas	Rating Date: 9/1/2006	Repeat Violator: NO

TCEQ Region: REGION 10 - BEAUMONT

Date Compliance History Prepared: September 09, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 09, 2002 to September 09, 2007

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

Name: Deana Holland Phone: 239-2504

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: 03/14/2004 ADMINORDER 2002-1120-MWD-E

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.126(a)

Rqmt Prov: Pg 10 OR 8(a) PERMIT
Description: Failure to submit required report on the sewer rehabilitation project to the Commission as requested in a ltr to the permittee dated 12/28/00.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121[G]
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Pg 2 FELMR 1 PERMIT
Description: Failure to comply with the permitted daily average flow limit.

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: Pg 9 OR 1 PERMIT
Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

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)
30 TAC Chapter 317 317.3(a)
30 TAC Chapter 317 317.3(b)(1)
30 TAC Chapter 317 317.3(e)(5)

Rqmt Prov: Pg 9 OR 1 PERMIT
Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121[G]
30 TAC Chapter 305, SubChapter F 305.125(1)

30 TAC Chapter 319, SubChapter A 319.11(c)

Rqmt Prov: Pg 4 MRR 2 PERMIT
Description: Failure to ensure that all measurements are accurately accomplished in a representative manner.

Classification: Moderate

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

Rqmt Prov: SP III REQ G PERMIT
Description: Failure to submit an annual sludge report to the TNRCC Region 10 office and Enforcement Division by 9/1 of each yr.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

30 TAC Chapter 319, SubChapter A 319.7(d)

Rqmt Prov: Pg 4 MRR 1 PERMIT
Description: Failure to submit monthly DMRs by the 20th of the following month.

Classification: Moderate

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

Rqmt Prov: Pg 6 MRR 7c PERMIT
Description: Failure to notify TNRCC Region 10 office and the Enforcement Division w/in the required notification period for effluent violations which deviated from the permitted effluent limitation by more than 40%. NH3, TSS, DO

Classification: Moderate

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

Rqmt Prov: Pg 2 FELMR 1236 PERMIT
Description: Failure to discharge effluent in compliance with permitted effluent limitations. NH3, TSS, DO, pH, Cl2

Classification: Moderate

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

Rqmt Prov: Pg 2 FELMR 1 PERMIT
Description: Failure to discharge effluent in compliance with permitted effluent limitations. NH3

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)

TWC Chapter 26 26.121

Rqmt Prov: Pg 9 OR 1 PERMIT
Description: Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

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	09/13/2002	(165062)
2	10/14/2002	(165065)
3	10/25/2002	(165068)
4	11/22/2002	(165071)
5	12/27/2002	(165074)
6	01/28/2003	(165078)
7	03/05/2003	(165043)
8	03/27/2003	(165046)
9	04/28/2003	(165051)
10	06/30/2003	(298194)
11	07/25/2003	(298196)
12	08/28/2003	(298197)
13	09/25/2003	(298198)
14	10/20/2003	(298199)
15	11/26/2003	(298200)
16	12/29/2003	(298201)
17	01/26/2004	(298202)
18	02/26/2004	(298191)
19	03/17/2004	(298192)
20	04/21/2004	(298193)
21	05/17/2004	(353258)
22	06/18/2004	(298195)
23	07/19/2004	(353259)
24	08/17/2004	(353260)
25	09/17/2004	(353261)
26	10/15/2004	(353262)
27	11/19/2004	(382460)
28	12/16/2004	(382461)
29	01/18/2005	(382462)
30	03/02/2005	(382458)
31	03/14/2005	(382459)
32	04/15/2005	(420323)
33	05/23/2005	(420324)
34	06/23/2005	(420325)
35	07/22/2005	(441377)
36	08/19/2005	(441378)
37	09/23/2005	(441379)
38	10/25/2005	(469444)
39	11/15/2005	(469445)
40	12/27/2005	(469446)
41	02/27/2006	(469442)
42	03/13/2006	(450493)
43	03/22/2006	(469443)
44	04/21/2006	(498891)
45	05/23/2006	(498892)
46	06/19/2006	(498893)
47	07/11/2006	(520908)
48	07/21/2006	(520905)
49	08/24/2006	(520906)
50	09/25/2006	(520907)
51	10/19/2006	(576838)
52	11/20/2006	(576839)
53	12/18/2006	(531089)
54	12/27/2006	(576840)
55	01/29/2007	(576841)
56	02/23/2007	(576833)
57	03/16/2007	(543427)
58	03/22/2007	(576834)
59	04/27/2007	(576835)
60	05/24/2007	(576836)
61	06/20/2007	(576837)

62 08/21/2007 (569902)

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

Date: 12/31/2002 (165078)

Self Report? YES Classification Moderate

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

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

Date: 01/31/2003 (165043)

Self Report? YES Classification Moderate

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

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

Date: 02/28/2003 (165046)

Self Report? YES Classification Moderate

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

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

Date: 03/31/2003 (165051)

Self Report? YES Classification Moderate

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

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

Date: 05/31/2003 (298194)

Self Report? YES Classification Moderate

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

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

Date: 01/31/2004 (298191)

Self Report? YES Classification Moderate

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

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

Date: 02/29/2004 (298192)

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: 03/31/2004 (298193)

Self Report? YES Classification Moderate

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

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

Date: 04/30/2004 (353258)

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: 06/30/2004 (353259)

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: 11/30/2004 (382461)

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 (382462)

Self Report? YES Classification Moderate

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

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

Date: 01/31/2005 (382458)

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: 02/28/2005 (382459)

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: 03/31/2005 (420323)

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: 04/30/2005 (420324)

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 (469444)

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 (469446)

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 (520908)

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 (469443)

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: 03/10/2006 (450493)

Self Report? NO Classification Moderate

Rqmt Prov: PERMIT SP III G

Description: Failure by the City of San Augustine to submit an annual sludge report to the TCEQ Region 10 office and TCEQ Water Quality Compliance Monitoring Team (MC 224) of the Enforcement Division by September 1 of each year.

Self Report? NO Classification Minor

Rqmt Prov: PERMIT OpR 1

Description: Failure by the City of San Augustine to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification Minor

Rqmt Prov: PERMIT OpR 1

Description: Failure by the City of San Augustine to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification Minor

Rqmt Prov: PERMIT OpR1

Description: Failure by the City of San Augustine to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification Minor

Rqmt Prov: PERMIT OpR 1

Description: Failure by the City of San Augustine to provide safety equipment for the gas chlorination facilities.
Failure by the City of San Augustine to provide safety equipment for the gas chlorination facilities.

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
TWC Chapter 26 26.121(a)(1)

Rqmt Prov: PERMIT PC 2g
Description: Failure by the City of San Augustine to prevent unauthorized discharges into or adjacent to the waters of the state.
Self Report? NO Classification Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT M&RR 5
Description: Failure by the City of San Augustine to have the backflow prevention device and the electronic flow measurement device calibrated or tested annually.
Self Report? NO Classification Minor
Rqmt Prov: PERMIT M&RR 2
Description: Failure by the City of San Augustine to preform the total chlorine residual analysis according to the manufacturer's recommendations.
Self Report? NO Classification Minor
Rqmt Prov: PERMIT M&RR 2
Description: Failure by the City of San Augustine to comply with the test procedures for the analysis of pollutants as specified in 30 TAC 319.11-319.12.
Self Report? NO Classification Minor
Rqmt Prov: PERMIT M&RR 2
Description: Failure by the City of San Augustine to comply with the test procedures for the analysis of pollutants as specified in 30 TAC 319.11-319.12.
Self Report? NO Classification Minor
Rqmt Prov: PERMIT OpR 1
Description: Failure by the City of San Augustine to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
Self Report? NO Classification Moderate
Rqmt Prov: PERMIT FEL&MR 1
Description: Failure by the City of San Augustine to discharge effluent that is compliant with permitted limitations.
Self Report? NO Classification Moderate
Rqmt Prov: PERMIT FEL&MR 1 and 2
Description: Failure by the City of San Augustine to discharge effluent in compliance with the permitted effluent limitations.
Self Report? NO Classification Moderate
Rqmt Prov: PERMIT FEL&MR 4
Description: Failure by the City of San Augustine to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Date: 10/31/2006 (576839)
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: 11/30/2006 (576840)
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: 12/31/2006 (576841)
Self Report? YES Classification Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter
Date: 01/31/2007 (576833)
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: 02/28/2007 (576834)
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: 03/31/2007 (576835)
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: 04/30/2007 (576836)

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: 05/31/2007 (576837)

Self Report? YES Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	§	**BEFORE THE**
ENFORCEMENT ACTION	§	
CONCERNING	§	**TEXAS COMMISSION ON**
CITY OF SAN AUGUSTINE	§	
RN103137949	§	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2007-1407-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 City of San Augustine ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment plant located approximately 5,000 feet northeast of the intersecton of U.S. Highway 96 and Farm-to-Market Road 147 in San Augustine County, Texas (the "Facility").

2. The City has discharged wastewater 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 August 26, 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 Five Thousand Two Hundred Dollars ($5,200) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Forty Dollars ($1,040) 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. Four Thousand One Hundred Sixty Dollars ($4,160) shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP").

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

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

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

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

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

II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have failed to comply with with the permitted effluent limits, in violation of 30 TEX. ADMIN. CODE § 305.125(1), and TEX. WATER CODE § 26.121(a), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010268001, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6, as documented during a record review conducted on July 25, 2007, and as shown in the following table:

Effluent Violation Table						
Permitted Effluent Limits	Monitoring Period End Date					
	10/31/2006	11/30/2006	12/31/2006	01/31/2007	02/28/2007	03/31/2007
Dissolved Oxygen Minimum 5.0 mg/L	2.9	c	4.6	c	c	c
Ammonia Nitrogen Daily Average Loading 15 lbs/day	c	c	C	c	17.988	c
Ammonia Nitrogen Daily Average Concentration 2 mg/L	c	c	C	c	4.09	3.118
Flow Daily Maximum .90 MGD	c	c	1.119290	1.499000	c	c
Total Minimum Chlorine Residual 1.0 mg/L	0.0	0.8	0.2	0.3	c	c

mg/L = milligrams per liter	lbs/day = pounds per day	MGD = million gallons per day C = Compliant

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 San Augustine, Docket No. 2007-1407-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, Four Thousand One Hundred Sixty Dollars ($4,160) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. It is further ordered that the City shall, within 30 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010268001. 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 fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

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 operations referenced in this Agreed Order.

5. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

8. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 6/18/08
For the Executive Director Date

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

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

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

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

_____ April 1, 2008
Signature Date

LeRoy Hughes _____ Mayor
Name (Printed or typed) Title
Authorized Representative of
City of San Augustine

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: 2007-1407-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	**City of San Augustine**
Payable Penalty Amount:	**Four Thousand One Hundred Sixty Dollars ($4,160)**
SEP Amount:	**Four Thousand One Hundred Sixty Dollars ($4,160)**
Type of SEP:	**Pre-approved**
Third-Party Recipient:	**Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Water or Wastewater Treatment Assistance**
Location of SEP:	**San Augustine 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 Third-Party Recipient shall repair or replace failing water systems or on-site wastewater systems for low income homeowners. The Third-Party Recipient shall use SEP funds to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems. The Third-Party recipient shall use a consistent and documented system for determining eligible participants.

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 protecting water sources for drinking, recreation, and wildlife from contamination.

C. Minimum Expenditure

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

2. Performance Schedule

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

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

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

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

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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