

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2008-0983-MWD-E TCEQ ID: RN102079423 CASE NO.: 36060**

**RESPONDENT NAME: Harris County**

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> <b>1660 AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS AGREED ORDER</b>	<input type="checkbox"/> <b>FINDINGS ORDER FOLLOWING SOAH HEARING</b>
<input type="checkbox"/> <b>FINDINGS DEFAULT ORDER</b>	<input type="checkbox"/> <b>SHUTDOWN ORDER</b>	<input type="checkbox"/> <b>IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER</b>
<input type="checkbox"/> <b>AMENDED ORDER</b>	<input type="checkbox"/> <b>EMERGENCY ORDER</b>	
<b>CASE TYPE:</b>		
<input type="checkbox"/> <b>AIR</b>	<input type="checkbox"/> <b>MULTI-MEDIA (check all that apply)</b>	<input type="checkbox"/> <b>INDUSTRIAL AND HAZARDOUS WASTE</b>
<input type="checkbox"/> <b>PUBLIC WATER SUPPLY</b>	<input type="checkbox"/> <b>PETROLEUM STORAGE TANKS</b>	<input type="checkbox"/> <b>OCCUPATIONAL CERTIFICATION</b>
<input checked="" type="checkbox"/> <b>WATER QUALITY</b>	<input type="checkbox"/> <b>SEWAGE SLUDGE</b>	<input type="checkbox"/> <b>UNDERGROUND INJECTION CONTROL</b>
<input type="checkbox"/> <b>MUNICIPAL SOLID WASTE</b>	<input type="checkbox"/> <b>RADIOACTIVE WASTE</b>	<input type="checkbox"/> <b>DRY CLEANER REGISTRATION</b>
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Bear Creek Park, approximately three miles northeast of the intersection of Interstate Highway 10 and State Highway 6, Harris County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment plant</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on January 5, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>SEP Coordinator:</b> Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768  <b>TCEQ Enforcement Coordinator:</b> Mr. Steve Villatoro, Enforcement Division, Enforcement Team 1, MC 169, 512-239-4930; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  <b>Respondent:</b> Mr. Walt Peckham, Precinct Coordinator, Harris County, 3535 War Memorial Drive, Houston, Texas 77084  <b>Respondent's Attorney:</b> Ms. Snehal Patel, Harris County Attorney's Office, 1019 Congress 15<sup>th</sup> Floor, Houston, Texas 77002</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Record Review Relating to this Case:</b> April 25, 2008</p> <p><b>Date of NOE Relating to this Case:</b> May 30, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>Failure to comply with permit effluent limits for total suspended solids and flow [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010932001, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p><b>Total Assessed:</b> \$3,340</p> <p><b>Total Deferred:</b> \$668  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$2,672</p> <p><b>Total Paid to General Revenue:</b> \$0</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>1) The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:</p> <p>a) By May 31, 2008:</p> <p>i. Hired a new operations company to operate the Facility;</p> <p>ii. Developed and implemented an inundation plan to control and balance the input and output of influent into the Facility during rainfall events in order to avoid exceeding the discharge parameters; and</p> <p>iii. Updated the Facility's operations manual to require only Harris County employees to operate all lift-stations and monitor water levels.</p> <p>b) During June 2008 returned to compliance with the permitted effluent limits of TPDES Permit No. WQ0010932001.</p> <p><b>Ordering Provisions:</b></p> <p>2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A).</p>

Additional ID No(s): WQ0010932001

Attachment A  
Docket Number: 2008-0983-MWD-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** Harris County  
**Payable Penalty Amount:** Two Thousand Six Hundred Seventy-Two Dollars (\$2,672)  
**SEP Amount:** Two Thousand Six Hundred Seventy-Two Dollars (\$2,672)  
**Type of SEP:** Pre-approved  
**Third-Party Recipient:** Keep Texas Beautiful-Waterway Cleanup Program  
**Location of SEP:** Harris County

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

**1. Project Description**

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to cleanup rivers, lakes, and shorelines, by supplying project coordination, labor, supplies, and materials for cleanup events and by providing assistance with disposal fees for proper disposal of wastes collected at events. To maximize the event, cleanups will use volunteers for labor. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by improving water quality of lakes, rivers, and creeks, reducing flooding caused by blockage of drainage outlets, reducing the potential threat to wildlife, decreasing damage to boats, and reducing injury to swimmers and bathers.



C. Minimum Expenditure

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

**2. Performance Schedule**

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

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

**3. Records and Reporting**

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

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

**4. Failure to Fully Perform**

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

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

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

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



**5. Publicity**

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

**6. Clean Texas Program**

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

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

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





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision April 29, 2008

<b>DATES</b>	Assigned	2-Jun-2008	Screening	16-Jun-2008	EPA Due	
	PCW	16-Jun-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	Harris County		
Reg. Ent. Ref. No.	RN102079423		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36060	No. of Violations	1
Docket No.	2008-0983-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Steve Villatoro
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<i>Subtotal 1</i>	<b>\$2,000</b>
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<b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>		
<b>Compliance History</b>	77.0% Enhancement	<i>Subtotals 2, 3, &amp; 7</i> <b>\$1,540</b>

Notes: The penalty is enhanced due to fifteen self-reported monthly effluent violations and one NOV with unrelated violations.

<b>Culpability</b>	No	0.0% Enhancement	<i>Subtotal 4</i>	<b>\$0</b>
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Notes: The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<i>Subtotal 5</i>	<b>\$200</b>
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<b>Economic Benefit</b>	0.0% Enhancement*	<i>Subtotal 6</i>	<b>\$0</b>
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Total EB Amounts \$105  
Approx. Cost of Compliance \$2,000  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<i>Final Subtotal</i>	<b>\$3,340</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<i>Adjustment</i>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<i>Final Penalty Amount</i>	<b>\$3,340</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<i>Final Assessed Penalty</i>	<b>\$3,340</b>
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<b>DEFERRAL</b>	20.0% Reduction	<i>Adjustment</i>	<b>-\$668</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

<b>PAYABLE PENALTY</b>	<b>\$2,672</b>
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**Screening Date** 16-Jun-2008

**Docket No.** 2008-0983-MWD-E

**PCW**

**Respondent** Harris County

Policy Revision 2 (September 2002)

**Case ID No.** 36060

PCW Revision April 29, 2008

**Reg. Ent. Reference No.** RN102079423

**Media [Statute]** Water Quality

**Enf. Coordinator** Steve Villatoro

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	15	75%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
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)** 77%

>> **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 penalty is enhanced due to fifteen self-reported monthly effluent violations and one NOV with unrelated violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 77%

<b>Screening Date</b>	16-Jun-2008	<b>Docket No.</b>	2008-0983-MWD-E	<b>PCW</b>
<b>Respondent</b>	Harris County	Policy Revision 2 (September 2002)		
<b>Case ID No.</b>	36060	PCW Revision April 29, 2008		
<b>Reg. Ent. Reference No.</b>	RN102079423			
<b>Media [Statute]</b>	Water Quality			
<b>Enf. Coordinator</b>	Steve Villatoro			
<b>Violation Number</b>	1			
<b>Rule Cite(s)</b>	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES"): Permit No. WQ0010932001, Effluent Limitations and Monitoring Requirements No. 1			
<b>Violation Description</b>	Failed to comply with permit effluent limits, as documented during a record review conducted on April 25, 2008 and shown in the attached table.			
<b>Base Penalty</b>				\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual		X	
Potential				

>> Programmatic Matrix

	Major	Moderate	Minor	Percent
Falsification				

Matrix Notes: 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 as a result of this violation.

Adjustment: \$9,000

\$1,000

Violation Events

Number of Violation Events: 2      123 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.

Good Faith Efforts to Comply      10.0% Reduction      \$200

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

Notes: The Respondent achieved compliance during June 2008.

Violation Subtotal: \$1,800

Economic Benefit (EB) for this violation      Statutory Limit Test

Estimated EB Amount: \$105      Violation Final Penalty Total: \$3,340

This violation Final Assessed Penalty (adjusted for limits): \$3,340

## Economic Benefit Worksheet

**Respondent:** Harris County  
**Case ID No.:** 36060  
**Reg. Ent. Reference No.:** RN102079423  
**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
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No commas or \$

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$2,000	31-Aug-2007	1-Jun-2008	0.75	\$5	\$100	\$105
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to hire new operations company, update Facility's operations manual, and develop and implement inundation plan. Date required is the first date of non-compliance. Final date is the date of compliance.

### Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$105

EFFLUENT VIOLATION TABLE		
Harris County		
TPDES Permit No. WQ0010932001		
Docket No. 2008-0983-MWD-E		
Months	TSS Daily Avg. Conc.	Flow Daily Avg. Loading
	Limit = 15 mg/L	Limit = 0.042 MGD
Outfall 001A		
8/31/2007	28.8	0.045
11/30/2007	17.6	c
12/31/2007	17.4	c
1/31/2008	24.3	c

conc. = concentration  
 mg/L = milligrams per liter  
 TSS = Total Suspended Solids  
 avg. = average  
 Max. = Maximum  
 MGD = Million Gallons per Day



# Compliance History

Customer/Respondent/Owner-Operator:	CN602680423 Harris County	Classification: AVERAGE Rating: 2.76
Regulated Entity:	RN102079423 BEAR CREEK PARK	Classification: AVERAGE Site Rating: 0.83
ID Number(s):	WASTEWATER PERMIT WQ0010932001 WASTEWATER PERMIT TPDES0068047 WASTEWATER PERMIT TX0068047 WASTEWATER LICENSING LICENSE WQ0010932001	
Location:	Located within Bear Creek Park, approximately 3 miles northeast of the intersection of Interstate Highway 10 and State Highway 6 in Harris County, Texas	Rating Date: September 01 07 Repeat Violator NO
TCEQ Region:	REGION 12 - HOUSTON	
Date Compliance History Prepared:	June 04, 2008	
Agency Decision Requiring Compliance History:	Enforcement	
Compliance Period:	June 04, 2003 to June 04, 2008	
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History		
Name:	<u>Steve Villatoro</u>	Phone: <u>512-239-4930</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 06/18/2003 (310940)
  - 2 07/31/2003 (310942)
  - 3 08/25/2003 (310943)
  - 4 09/25/2003 (310944)
  - 5 10/02/2003 (250178)
  - 6 10/17/2003 (310945)
  - 7 11/17/2003 (310946)
  - 8 12/22/2003 (310947)
  - 9 01/22/2004 (310948)
  - 10 02/17/2004 (310937)
  - 11 03/19/2004 (310938)
  - 12 04/22/2004 (358373)
  - 13 05/19/2004 (358374)
  - 14 06/15/2004 (310941)
  - 15 07/19/2004 (358375)
  - 16 09/20/2004 (358378)
  - 17 10/22/2004 (358379)
  - 18 11/01/2004 (358376)

19 11/01/2004 (358377)  
 20 11/24/2004 (385317)  
 21 12/23/2004 (385318)  
 22 01/20/2005 (385319)  
 23 02/15/2005 (423370)  
 24 03/21/2005 (385316)  
 25 04/15/2005 (423371)  
 26 05/19/2005 (423372)  
 27 06/13/2005 (423373)  
 28 06/13/2005 (423374)  
 29 08/22/2005 (444190)  
 30 09/19/2005 (444191)  
 31 10/17/2005 (474592)  
 32 11/28/2005 (474593)  
 33 12/22/2005 (474594)  
 34 01/19/2006 (474595)  
 35 02/15/2006 (474590)  
 36 03/22/2006 (474591)  
 37 04/14/2006 (502366)  
 38 05/15/2006 (502367)  
 39 06/19/2006 (502368)  
 40 07/07/2006 (481308)  
 41 07/18/2006 (483599)  
 42 07/18/2006 (524684)  
 43 08/29/2006 (509947)  
 44 09/06/2006 (524685)  
 45 09/14/2006 (524686)  
 46 10/13/2006 (549637)  
 47 11/16/2006 (549638)  
 48 01/05/2007 (583580)  
 49 01/12/2007 (583581)  
 50 02/13/2007 (549636)  
 51 03/16/2007 (583575)  
 52 04/16/2007 (583576)  
 53 05/14/2007 (583577)  
 54 06/13/2007 (583578)  
 55 07/19/2007 (583579)  
 56 08/24/2007 (568391)  
 57 08/24/2007 (603987)  
 58 09/19/2007 (603988)  
 59 10/18/2007 (603989)  
 60 01/10/2008 (622867)  
 61 01/15/2008 (622866)  
 62 01/31/2008 (674317)  
 63 03/04/2008 (674316)  
 64 05/29/2008 (654219)

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

Date	02/29/2004	(310938)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	11/30/2004	(385318)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			
Description:	Failure to meet the limit for one or more permit parameter			
Date	04/30/2005	(423372)		
Self Report?	YES		Classification	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)			

Description:	Failure to meet the limit for one or more permit parameter	Classification	Moderate
Date	05/31/2005 (423373)		
Self Report?	YES		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter	Classification	Moderate
Date	06/30/2005 (423374)		
Self Report?	YES		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter	Classification	Moderate
Date	10/31/2005 (474593)		
Self Report?	YES		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter	Classification	Moderate
Date	11/30/2005 (474594)		
Self Report?	YES		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter	Classification	Moderate
Date	04/30/2006 (502367)		
Self Report?	YES		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter	Classification	Moderate
Date	05/31/2006 (502368)		
Self Report?	YES		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter	Classification	Minor
Date	07/17/2006 (483599)		
Self Report?	NO		
Citation:	30 TAC Chapter 317 317.4(a)(8)		
Description:	Failure to provide a Reduced Pressure Zone (RPZ) backflow prevention device as required.	Classification	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to have sludge analyses available at the time of the investigation.	Classification	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 317 317.6(b)(1)(E)		
Description:	Failure to install the fan and vent in the chlorine room as required. The fan was installed at ground level, blowing into the room and the vent was also installed at ground level.	Classification	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to provide records indicating the flow meter has been calibrated in the last twelve months.	Classification	Moderate
Date	08/31/2006 (524686)		
Self Report?	YES		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter	Classification	Moderate
Date	01/31/2007 (549636)		
Self Report?	YES		
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter	Classification	Moderate
Date	08/31/2007 (603988)		

Self Report?	YES	Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	11/30/2007	(622867)	
Self Report?	YES	Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	12/31/2007	(674317)	
Self Report?	YES	Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	01/31/2008	(674316)	
Self Report?	YES	Classification	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		

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  
HARRIS COUNTY  
RN102079423**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2008-0983-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 Harris County ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent, represented by Ms. Snehal Patel of the Harris County Attorney's Office, appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant within Bear Creek Park, approximately three miles northeast of the intersection of Interstate Highway 10 and State Highway 6 in Harris County, Texas (the "Facility").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about June 4, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.



6. An administrative penalty in the amount of Three Thousand Three Hundred Forty Dollars (\$3,340) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Six Hundred Sixty-Eight Dollars (\$668) is deferred contingent upon the Respondent'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 Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Two Thousand Six Hundred Seventy-Two Dollars (\$2,672) shall be conditionally offset by the Respondent'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 Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent implemented the following corrective measures at the Facility:
  - a. By May 31, 2008:
    - i. Hired a new operations company to operate the Facility;
    - ii. Developed and implemented an inundation plan to control and balance the input and output of influent into the Facility during rainfall events in order to avoid exceeding the discharge parameters; and
    - iii. Updated the Facility's operations manual to require only Harris County employees to operate all lift-stations and monitor water levels.
  - b. During June 2008 returned to compliance with the permitted effluent limits of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010932001.
10. 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 Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. 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.
12. 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 Respondent is alleged to have failed to comply with permitted effluent limits, in violation of TEXAS WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0010932001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on April 25, 2008, and shown in the following table:

EFFLUENT VIOLATION TABLE		
Months	TSS Daily Avg. Conc.	Flow Daily Avg. Loading
	Limit = 15 mg/L	Limit = 0.042 MGD
Outfall 001A		
8/31/2007	28.8	0.045
11/30/2007	17.6	c
12/31/2007	17.4	c
1/31/2008	24.3	c

conc. = concentration  
 lbs/day = pounds per day  
 mg/L = milligrams per liter  
 TSS = Total Suspended Solids  
 avg. = average  
 Max. = Maximum  
 MGD = Million Gallons per Day

## III. DENIALS

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



#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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: Harris County, Docket No. 2008-0983-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 Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I Paragraph 6 above, Two Thousand Six Hundred Seventy-Two Dollars (\$2,672) of the assessed administrative penalty shall be offset with the condition that the Respondent implements the SEP defined in Attachment A, incorporated herein by reference. The Respondent'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 Respondent. The Respondent 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 Respondent 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 Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent 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.



7. 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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

John Srdlin  
For the Executive Director

12/8/2008  
Date

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

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

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

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

Walt Peckham  
Signature

10/17/08  
Date

WALT PECKHAM  
Name (Printed or typed)  
Authorized Representative of  
Harris County

Prct. Coordinator  
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: 2008-0983-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

**Respondent:** Harris County  
**Payable Penalty Amount:** Two Thousand Six Hundred Seventy-Two Dollars (\$2,672)  
**SEP Amount:** Two Thousand Six Hundred Seventy-Two Dollars (\$2,672)  
**Type of SEP:** Pre-approved  
**Third-Party Recipient:** Keep Texas Beautiful-Waterway Cleanup Program  
**Location of SEP:** Harris County

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

**1. Project Description**

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to cleanup rivers, lakes, and shorelines, by supplying project coordination, labor, supplies, and materials for cleanup events and by providing assistance with disposal fees for proper disposal of wastes collected at events. To maximize the event, cleanups will use volunteers for labor. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by improving water quality of lakes, rivers, and creeks, reducing flooding caused by blockage of drainage outlets, reducing the potential threat to wildlife, decreasing damage to boats, and reducing injury to swimmers and bathers.



C. Minimum Expenditure

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

**2. Performance Schedule**

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

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

**3. Records and Reporting**

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

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

**4. Failure to Fully Perform**

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

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

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

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



**5. Publicity**

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

**6. Clean Texas Program**

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

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

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

