

Page 1 of 2

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-0659-MWD-E TCEQ ID: RN102183233 CASE NO.: 37578
RESPONDENT NAME: City of Palestine

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Town Creek Plant, located approximately two miles east and 2.7 miles north of the intersection of United States Highway 84-79 and Farm-to-Market Road 645 at the confluence of Basset Creek and Town Creek, southwest of Palestine, Anderson 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 November 30, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5363; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. R. Dale Brown, City Manager, City of Palestine, 504 North Queen Street, Palestine, Texas 75801 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 checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: February 10 and July 21, 2009</p> <p>Date of NOV/NOE Relating to this Case: April 29, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation and a record review.</p> <p>WATER</p> <p>1) Failure to comply with the permitted effluent limitations for ammonia nitrogen and total suspended solids [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010244001, Effluent Limitations and Monitoring Requirements No. 1].</p> <p>2) Failure to ensure that the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained resulting in the unauthorized discharge of wastewater and the accumulation of sludge in the receiving stream. Specifically, public water supply ("PWS") sludge was being introduced into the Facility at an amount and rate which upset the Facility and caused sludge to accumulate in the chlorine contact chamber and be discharged into the receiving stream. The investigator documented that the sludge was visible from the point of discharge (the outfall) to several miles downstream. A sample taken at the point of discharge and two samples taken downstream of the point of discharge contained elevated levels of biochemical oxygen demand, total suspended solids, and volatile suspended solids [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and (5), and TPDES Permit No. WQ0010244001, Operational Requirements No. 1 and Permit Conditions 2.g.].</p>	<p>Total Assessed: \$28,700</p> <p>Total Deferred: \$5,740 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$22,960</p> <p>Total Paid (Due) to General Revenue: \$0</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that on February 16, 2009, the Respondent ceased sending the PWS sludge to the Facility.</p> <p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order:</p> <p>i. Develop and implement procedures to ensure that the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained; and</p> <p>ii. Remove and properly dispose of all sludge and solids from the receiving stream, from the clarifier, and from the chlorine contact chamber.</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 2.a.i and 2.a.ii; and</p> <p>c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010244001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations.</p>

Additional ID No(s): WQ0010244001

Attachment A
Docket Number: 2009-0659-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Palestine
Payable Penalty Amount:	Twenty-Two Thousand Nine Hundred Sixty Dollars (\$22,960)
SEP Amount:	Twenty-Two Thousand Nine Hundred Sixty Dollars (\$22,960)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. (RC&D)-Household Hazardous Waste Clean-Up
Location of SEP:	Anderson 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 the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide local residents with a means of properly disposing household hazardous wastes such as paint, thinners, pesticides, oil and gas, corrosive cleaners, and fertilizers in one day collection events. SEP monies will be used to pay for the associated labor, materials, and disposal costs. Citizens will not be charged disposal fees. The project is administered in accordance with TCEQ guidance on household hazardous waste and in compliance with federal, state, and local environmental laws and regulations. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs.

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 a means of properly disposing household hazardous waste which might otherwise be disposed of in storm drains, the sewage system, or other means detrimental to the environment.

C. Minimum Expenditure

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

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:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
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 October 30, 2008

DATES	Assigned	21-Jul-2009	Screening	21-Jul-2009	EPA Due	
	PCW	3-Aug-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Palestine		
Reg. Ent. Ref. No.	RN102183233		
Facility/Site Region	5-Tyler	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	37578	No. of Violations	2
Docket No.	2009-0659-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Samuel Short
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section			
TOTAL BASE PENALTY (Sum of violation base penalties)		Subtotal 1	\$17,500
ADJUSTMENTS (+/-) TO SUBTOTAL 1			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.</small>			
Compliance History	64.0% Enhancement	Subtotals 2, 3, & 7	\$11,200
Notes	Enhancement recommended for having eight NOVs for self-reported effluent violations, four NOVs for the same or similar violations, and two NOVs for non-similar violations within the last five years.		
Culpability	No 0.0% Enhancement	Subtotal 4	\$0
Notes	The Respondent does not meet the culpability criteria.		
Good Faith Effort to Comply Total Adjustments		Subtotal 5	\$0
Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
Total EB Amounts	\$820	<small>*Capped at the Total EB \$ Amount</small>	
Approx. Cost of Compliance	\$13,000		
SUM OF SUBTOTALS 1-7		Final Subtotal	\$28,700
OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>			
Notes			
		Final Penalty Amount	\$28,700
STATUTORY LIMIT ADJUSTMENT		Final Assessed Penalty	\$28,700
DEFERRAL	20.0% Reduction	Adjustment	-\$5,740
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>			
Notes	Deferral offered for expedited settlement.		
PAYABLE PENALTY			\$22,960

Screening Date 21-Jul-2009

Docket No. 2009-0659-MWD-E

PCW

Respondent City of Palestine

Policy Revision 2 (September 2002)

Case ID No. 37578

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102183233

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

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)	12	60%
	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 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) 64%

>> **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

Enhancement recommended for having eight NOV's for self-reported effluent violations, four NOV's for the same or similar violations, and two NOV's for non-similar violations within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 64%

Screening Date 21-Jul-2009	Docket No. 2009-0659-MWD-E	PCW
Respondent City of Palestine		<small>Policy Revision 2 (September 2002)</small>
Case ID No. 37578		<small>PCW Revision: October 30, 2008</small>
Reg. Ent. Reference No. RN102183233		
Media [Statute] Water Quality		
Enf. Coordinator Samuel Short		
Violation Number 1		
Rule Cite(s)	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010244004, Effluent Limitations and Monitoring Requirements No. 1	
Violation Description	Failed to comply with the permitted effluent limitations, as documented during a record review conducted on July 21, 2009 and shown in the attached table.	
	Base Penalty	\$10,000
>> Environmental, Property and Human Health Matrix		
	Harm	
OR	Release	Major Moderate Minor
	Actual	<input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>
	Potential	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
	Percent	25%
>> Programmatic Matrix		
	Falsification	
	Major Moderate Minor	
	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
	Percent	0%
Matrix Notes	A simplified model was used to evaluate ammonia nitrogen ("NH3-N") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Daily average flow, total suspended solids ("TSS"), and biochemical oxygen demand ("BOD") values 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	\$7,500
		\$2,500
Violation Events		
	Number of Violation Events	3
		119 Number of violation days
<small>mark only one with an x</small>	daily	<input type="checkbox"/>
	weekly	<input type="checkbox"/>
	monthly	<input type="checkbox"/>
	quarterly	<input checked="" type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
	single event	<input type="checkbox"/>
	Violation Base Penalty	\$7,500
Three quarterly events are recommended.		
Good Faith Efforts to Comply		
	0.0% Reduction	\$0
	Before NOV NOV to EDRP/Settlement Offer	
Extraordinary	<input type="checkbox"/> <input type="checkbox"/>	
Ordinary	<input type="checkbox"/> <input type="checkbox"/>	
N/A	<input checked="" type="checkbox"/> (mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.	
	Violation Subtotal	\$7,500
Economic Benefit (EB) for this violation		
	Estimated EB Amount	\$397
Statutory Limit Test		
	Violation Final Penalty Total	\$12,300
	This violation Final Assessed Penalty (adjusted for limits)	\$12,300

Economic Benefit Worksheet

Respondent City of Palestine
Case ID No. 37578
Reg. Ent. Reference No. RN102183233
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)			0.00	\$0	\$0	\$0
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)	\$5,000	30-Sep-2008	3-May-2010	1.59	\$397	n/a

Notes for DELAYED costs

The estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the wastewater system. Date required is the first date of non-compliance. The final date is the expected 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

\$5,000

TOTAL

\$397

<p>Screening Date 21-Jul-2009</p> <p>Respondent City of Palestine</p> <p>Case ID No. 37578</p> <p>Reg. Ent. Reference No. RN102183233</p> <p>Media [Statute] Water Quality</p> <p>Inf. Coordinator Samuel Short</p> <p>Violation Number 2</p> <p>Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1) and (5) and TPDES Permit No. WQ0010244001, Operational Requirements No. 1 and Permit Conditions 2.g.</p>	<p>Docket No. 2009-0659-MWD-E</p> <p style="text-align: right;">PCW <small>Policy Revision 2 (September 2002) PCW Revision October 30, 2003</small></p>																														
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Economic Benefit Worksheet

Respondent City of Palestine
Case ID No. 37578
Reg. Ent. Reference No. RN102183233
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
--	-----------	---------------	------------	-----	----------------	---------------	-----------

Item Description No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
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	\$5,000	10-Feb-2009	3-Mar-2010	1.06	\$264	n/a	\$264
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$3,000	10-Feb-2009	3-Mar-2010	1.06	\$159	n/a	\$159

Notes for DELAYED costs

The estimated cost to remove and dispose of the accumulated sludge and solids in the receiving stream and chlorine contact chamber. Date required is the date of the investigation and the final date is the expected date of compliance. The estimated cost to develop and implement procedures to ensure that the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained. Date required is the date of the investigation and the final date is the expected 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

\$8,000

TOTAL

\$423

Effluent Limit Violation Table

table rev.

Respondent City of Palestine
ID Number(s) TPDES Permit No. WQ0010244001
Docket Number 2009-0659-MWD-E
Enf. Coordinator Samuel Short

Corresponds to Violation Number: 1

EFFLUENT PARAMETER

Permit Limit

<i>Month/Year</i>	Ammonia Nitrogen daily average	Ammonia Nitrogen daily max.	Ammonia Nitrogen daily average loading	TSS daily max.									
9/30/2008	5.39	10.9	c	c									
2/28/2009	9.76	18.2	c	c									
3/31/2009	9.27	13.5	160.36	c									
4/30/2009	8.54	22.1	136.95	78									

<u>Name</u>	<u>Abbreviation</u>
milligrams per liter	mg/L
pounds per day	lbs/dy
total suspended solids maximum	TSS max.
compliant	c

SAMPLE RESULTS

Investigation Date: February 10, 2009

City of Palestine

Docket No. 2009-0659-MWD-E

Parameter	creek upstream	discharge point	creek downstream	sludge accumulation downstream
BOD in mg/L	<3	15.0	32.0	>2,067
TSS in mg/L	7	77.0	112.0	33,300.00
VSS in mg/L	2	54.0	71.00	16,000.00

Name

milligrams per liter
biochemical oxygen demand
total suspended solids
volatile suspended solids
less than
greater than

Abbreviation

mg/L
BOD
TSS
VSS
<
>

Compliance History Report

Customer/Respondent/Owner-Operator: CN800822922 City of Palestine Classification: AVERAGE Rating: 2.32
 Regulated Entity: RN102183233 TOWN CREEK PLANT Classification: AVERAGE Site Rating: 0.91

ID Number(s):
 WASTEWATER PERMIT WQ0010244001
 WASTEWATER PERMIT TPDES0025453
 WASTEWATER PERMIT TX0025453
 PRETREATMENT EPA ID TX0025453000
 PRETREATMENT PERMIT WQ0010244001
 WASTEWATER LICENSING LICENSE WQ0010244001

Location: LOCATED APPROXIMATELY 2 MILES EAST AND 2.7 MILES NORTH OF THE INTERSECTION OF U.S. HIGHWAY 84-79 AND FARM-TO-MARKET ROAD 645 AT THE CONFLUENCE OF BASSET AND TOWN CREEK, SOUTHWEST OF THE CITY OF PALESTINE, ANDERSON COUNTY

TCEQ Region: REGION 05 - TYLER

Date Compliance History Prepared: August 03, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 21, 2004 to July 21, 2009

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

Name: Samuel Short Phone: (512) 239-5363

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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

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	07/21/2004	(354457)
2	08/24/2004	(291780)
3	08/24/2004	(354458)
4	09/08/2004	(354459)
5	10/19/2004	(354460)
6	11/23/2004	(383165)
7	12/22/2004	(383166)
8	01/19/2005	(383167)
9	02/23/2005	(383163)
10	03/22/2005	(383164)
11	04/20/2005	(578495)
12	05/23/2005	(381216)
13	05/25/2005	(578498)
14	06/17/2005	(578501)

15	07/15/2005	(578504)
16	08/23/2005	(578507)
17	09/12/2005	(578511)
18	09/20/2005	(432052)
19	09/20/2005	(578509)
20	11/21/2005	(578513)
21	12/21/2005	(578515)
22	01/19/2006	(578517)
23	02/23/2006	(578491)
24	03/15/2006	(456843)
25	03/27/2006	(578493)
26	04/25/2006	(578496)
27	05/18/2006	(578499)
28	06/21/2006	(578502)
29	07/24/2006	(578505)
30	08/23/2006	(578508)
31	09/21/2006	(578510)
32	10/16/2006	(515732)
33	10/23/2006	(578512)
34	11/22/2006	(578514)
35	12/20/2006	(578516)
36	01/16/2007	(578518)
37	02/15/2007	(578492)
38	03/14/2007	(578494)
39	04/18/2007	(578497)
40	05/17/2007	(578500)
41	06/20/2007	(578503)
42	07/20/2007	(578506)
43	08/28/2007	(607887)
44	09/18/2007	(607888)
45	12/10/2007	(610215)
46	04/11/2008	(638663)
47	06/05/2008	(680395)
48	07/23/2008	(687165)
49	02/26/2009	(725200)
50	04/21/2009	(736333)
51	06/30/2009	(744335)

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

Date: 07/31/2004 (354458) CN600622922
 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: 08/31/2004 (291780) CN600622922
 Self Report? NO Classification Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.4(d)
 Description: Failure to properly operate and maintain clarifiers.
 Date: 05/28/2005 (381216) CN600622922
 Self Report? NO Classification Moderate
 Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
 Description: Failure to comply with No Exposure Certification.
 Date: 06/30/2005 (578504) CN600622922
 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: 07/31/2005 (578507) CN600622922
 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: 07/31/2006 (578508) CN600622922
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: 10/10/2006 (515732) CN600622922
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.2

Description: Failure to prevent an unauthorized discharge from the cities collection system
Date: 12/07/2007 (610215) CN600622922
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 291, SubChapter F 291.94(a)
Description: Failure to properly maintain the collection system as specified in 30 TAC§291.94(a).

Self Report? NO **Classification:** Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
Description: Failure to prevent unauthorized discharges to waters in the state as specified in
26.121(a) of the Texas Water Code.
Date: 04/11/2008 (638863)

Self Report? NO **Classification:** Moderate
Citation: 40 CFR Chapter 403, SubChapter N, PT 403 403.12(l)(2)
Description: Failure to submit the required annual report.

Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 315, SubChapter A 315.1
40 CFR Chapter 403, SubChapter N, PT 403 403.18
Description: Failure to develop and enforce technically based local limits.

Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 315, SubChapter A 315.1
40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)(v)
Description: Failure to inspect and sample all SIUs per the approved program.

Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 315, SubChapter A 315.1
40 CFR Chapter 403, SubChapter N, PT 403 403.12(o)
40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)(vi)
Description: Failure to maintain adequate records of all sampling, inspections, or enforcement
actions taken.

Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 315, SubChapter A 315.1
40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)(iv)
Description: Failure to establish an enforcement management system per 40 CFR 403.8(f)(2)(iv), to
track receipt and review of all IU reports and other notices received from IUs.

Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 315, SubChapter A 315.1
40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(5)
Description: Failure to implement the CA's enforcement response plan by issuing notices of
violation for effluent limit violations and for failure to submit self-monitoring reports, per
40 CFR 403.8(f)(5).

Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 315, SubChapter A 315.1
40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)(vii)
Description: Failure to identify SIUs in significant noncompliance and publish a list of such
noncompliant SIUs in accordance with 40 CFR 403.8(f)(2)(vii).

Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 315, SubChapter A 315.1
40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(3)
Description: Failure to have sufficient resources and qualified personnel to implement an approved
pretreatment program per 40 CFR 403.8(f)(3).

Self Report? NO **Classification:** Minor
Citation: 40 CFR Chapter 403, SubChapter N, PT 403 403.12(p)(1)
Description: Failure to notify SIUs either by permit or via the City's ordinance of their potential
requirement to report hazardous wastes to the EPA, TCEQ, and CA, as required
by 40 CFR 403.12(p)1.

Date: 09/30/2008 CN600622922
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: 02/28/2009 CN600622922
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: 03/31/2009 CN600622922
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: 04/30/2009 CN600622922
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: 07/01/2009 (744335) CN600622922
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to maintain compliance with permit limits for TSS and Ammonia.
Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 317 317.4(a)(8)
30 TAC Chapter 317 317.7(i)
Description: Failure to insure that atmospheric vacuum breakers installed on hose bibs and that the RPZ is tested annually.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: Failure to insure that the security fence around the perimeter of the plant is maintained and is in good repair.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF PALESTINE
RN102183233**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-0659-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Palestine ("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 facility located approximately two miles east and 2.7 miles north of the intersection of United States Highway 84-79 and Farm-to-Market Road 645 at the confluence of Basset Creek and Town Creek, southwest of Palestine, in Anderson County, Texas (the "Facility").
2. The City has discharged municipal waste 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 May 4, 2009.
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 Twenty-Eight Thousand Seven Hundred Dollars (\$28,700) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). Five Thousand Seven Hundred Forty Dollars (\$5,740) 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. Twenty-Two Thousand Nine Hundred Sixty Dollars (\$22,960) 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 recognizes that on February 16, 2009, the City ceased sending the public water supply ("PWS") sludge to the Facility.
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 City 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 City is alleged to have:

1. Failed to comply with the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010244001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on July 21, 2009 and as indicated in the table below.

EFFLUENT PARAMETER				
Permit Limit				
	Ammonia Nitrogen daily average	Ammonia Nitrogen daily max.	Ammonia Nitrogen daily average loading	TSS daily max.
Month/Year	3 mg/L	10 mg/L	118 lbs/dy	40 mg/L
9/30/2008	5.39	10.9	c	c
2/28/2009	9.76	18.2	c	c
3/31/2009	9.27	13.5	160.36	c
4/30/2009	8.54	22.1	136.95	78

<u>Name</u>	<u>Abbreviation</u>
milligrams per liter	mg/L
pounds per day	lbs/dy
total suspended solids maximum	TSS max.
compliant	c

2. Failed to ensure that the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained resulting in the unauthorized discharge of wastewater and the accumulation of sludge in the receiving stream, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and (5) and TPDES Permit No. WQ0010244001, Operational Requirements No. 1 and Permit Conditions 2.g., as documented during an investigation conducted on February 10, 2009. Specifically, PWS sludge was being introduced into the Facility at an amount and rate which upset the Facility and caused sludge to accumulate in the chlorine contact chamber and be discharged into the receiving stream. The investigator documented that the sludge was visible from the point of discharge (the outfall) to several miles downstream. A sample taken at the point of discharge and two samples taken downstream of the point of discharge contained elevated levels of biochemical oxygen demand, total suspended solids, and volatile suspended solids as described in the table below.

SAMPLE RESULTS				
Investigation Date: February 10, 2009				
City of Palestine				
Docket No. 2009-0659-MWD-E				
Parameter	creek upstream	discharge point	creek downstream	sludge accumulation downstream
BOD in mg/L	<3	15.0	32.0	>2,067
TSS in mg/L	7	77.0	112.0	33,300.00
VSS in mg/L	2	54.0	71.00	16,000.00

<u>Name</u>	<u>Abbreviation</u>
milligrams per liter	mg/L
biochemical oxygen demand	BOD
total suspended solids	TSS
volatile suspended solids	VSS
less than	<
greater than	>

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 Palestine, Docket No. 2009-0659-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, Twenty-Two Thousand Nine Hundred Sixty Dollars (\$22,960) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the City shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Develop and implement procedures to ensure that the Facility and all of its systems of collection, treatment, and disposal are properly operated and maintained; and
 - ii. Remove and properly dispose of all sludge and solids from the receiving stream, from the clarifier, and from the chlorine contact chamber.
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 3.a.i and 3.a.ii as described in Ordering Provision No. 3.c below; and
 - c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010244001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate

compliance with the permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

4. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

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



For the Executive Director

Date 11/2/2009

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

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

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

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



Signature

09/28/09

Date

R. Dale Brown

City Manager

Name (Printed or typed)
Authorized Representative of
City of Palestine

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: 2009-0659-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Palestine
Payable Penalty Amount:	Twenty-Two Thousand Nine Hundred Sixty Dollars (\$22,960)
SEP Amount:	Twenty-Two Thousand Nine Hundred Sixty Dollars (\$22,960)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. (RC&D)-Household Hazardous Waste Clean-Up
Location of SEP:	Anderson 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 the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide local residents with a means of properly disposing household hazardous wastes such as paint, thinners, pesticides, oil and gas, corrosive cleaners, and fertilizers in one day collection events. SEP monies will be used to pay for the associated labor, materials, and disposal costs. Citizens will not be charged disposal fees. The project is administered in accordance with TCEQ guidance on household hazardous waste and in compliance with federal, state, and local environmental laws and regulations. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs.

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 a means of properly disposing household hazardous waste which might otherwise be disposed of in storm drains, the sewage system, or other means detrimental to the environment.

C. Minimum Expenditure

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

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:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
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.

