EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-0787-MWD-E **TCEQ ID:** RN101608024 **CASE NO.:** 33523

RESPONDENT NAME: City of Port Arthur

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
X WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Sabine Pass Facility, 5137 South 4th Avenue approximately 0.3 mile north of Tremont Street, Jefferson County

TYPE OF OPERATION: Wastewater treatment facility

SMALL BUSINESS: ___ Yes X No

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired on August 18, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223
TCEQ Enforcement Coordinator: Ms. Pamela Campbell, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4493; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171
Respondent: The Honorable Oscar Ortiz, Mayor, City of Port Arthur, P. O. Box 1089, Port Arthur, Texas 77641
Mr. Stephen Fitzgibbons, City Manager, City of Port Arthur, P. O. Box 1089, Port Arthur, Texas 77641
Respondent's Attorney: The Honorable Carl Parker, The Parker Law Firm, 1 Plaza Square, Port Arthur, Texas 77642-5513

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint X Routine __ Enforcement Follow-up __ Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** February 20, 2007 **Date of NOV/NOE Relating to this Case:** April 18, 2007 (NOE) **Background Facts:** This was a routine investigation. **WATER** 1) Failure to properly maintain the collection system. Specifically, the Respondent has failed to mitigate the effects of inflow and infiltration ("I/I") on the Facility by exceeding 75% of its permitted daily average flow limit of 0.3 million gallons per day ("MGD") in May 2004, December 2004, and February 2005 and exceeding its flow limits in February 2004 (0.335 MGD). A review of self-reported data documented daily maximum flow values greater than the daily average flow limit in February and March 2004, May and June 2004, September 2004 through March 2005, July 2005, November and December 2005, June and July 2006, and September 2006. Also, the mixed liquor volatile suspended solids ratio was 49% of the mixed liquor suspended solids, below the recommended range of 70 - 80%, which is indicative of the I/I impact on the Facility [30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10364010 Operational Requirements No. 1]. 2) Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the clarifier weir was corroded and the sawtooth weir was not bolted down in several places, causing the clarifier to short circuit. The skimmer arm was not contacting adequately, allowing solids to bypass, and the weir trough had excessive solids in it [30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. 10364010 Operational Requirements No. 1].	**Total Assessed:** $13,860 **Total Deferred:** $2,772 X Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $11,088 **Total Paid (Due) to General Revenue:** $0 **Site Compliance History Classification** __ **High** X **Average** __ **Poor** **Person Compliance History Classification** __ **High** X **Average** __ **Poor** **Major Source:** __ Yes X No **Applicable Penalty Policy:** September 2002	**Corrective Actions Taken:** The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility: a. On or about January 27, 2004, cleared the blockage, removed and disposed of the debris, and chlorinated the area affected by the January 25 and 26, 2004 unauthorized discharges; b. On February 12, 2004, removed and disposed of the debris, and chlorinated the drainage ditch affected by the February 12, 2004 unauthorized discharge; c. On or about June 24, 2005, repaired the broken force main, removed and disposed of the debris, and chlorinated the area affected by the June 24, 2005 unauthorized discharge; d. On December 6, 2005, removed and disposed of the debris, and chlorinated the drainage ditch affected by the December 6, 2005 unauthorized discharge; e. On December 14, 2005, removed and disposed of the debris, and chlorinated the drainage ditch affected by the December 14, 2005 unauthorized discharge; f. On or about February 12, 2007, power was restored to the lift station, removed and disposed of the debris, and chlorinated the area affected by the January 30, 2007 unauthorized discharge; g. On March 12, 2007, submitted photographic documentation that the on-site lift station had been cleaned; h. On March 12, 2007, submitted photographic documentation showing that a vacuum breaker had been installed on the hose bibb at the Highway 87 lift station; i. On February 20, 2007, corrected the February 2004 and May 2004 DMRs and provided a copy of the June 2005 DMR; j. On March 12, 2007, submitted documentation that the skimmer arm had been adjusted, the sawtooth weir had been bolted down, and that the excess solids had been removed from the clarifier; and

3) Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the facility lift station had an excessive grease buildup [30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. 10364010 Operational Requirements No. 1]. 4) Failure to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, there was no vacuum breaker on the hose bibb at the Highway 87 lift station [30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. 10364010 Operational Requirements No. 1]. 5) Failure to prevent the unauthorized discharge of wastewater. Specifically, the Respondent reported three unauthorized discharges in 2004 (January 25-26, and February 12); three unauthorized discharges in 2005 (June 24, December 6, and December 14); and one unauthorized discharge in 2007 (January 30) [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a) and TPDES Permit No. 10364010 Permit Conditions No. 2(g)]. 6) Failure to accurately complete the discharge monitoring reports ("DMRs") and have them readily available for review. Specifically, the Respondent failed to put the maximum total chlorine residual results on the February and May 2004 DMRs and failed to submit the June 2005 and October 2006 DMRs to the TCEQ. Also, the October 2006 DMR could not be located at the time of the investigation [30 TEX. ADMIN. CODE §§ 305.125(17), 319.7(a)(4) and (c) and TPDES Permit No. 10364010 Monitoring and Reporting Requirements Nos. 1 and 3(b)].		k. On March 12, 2007, submitted a copy of the October 2006 DMR to the TCEQ Beaumont Regional Office. **Ordering Provisions:** 1. The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A) 2. The Order will also require the Respondent to: a. Within 60 days after the effective date of this Agreed Order, conduct an engineering evaluation of the collection system and wastewater treatment plant to evaluate the causes and necessary corrective actions to reduce the I/I on the collection system and to maintain compliance with the effluent limits of TPDES Permit No. 10364010. The evaluation shall be prepared by a Texas registered professional engineer and shall include a plan and schedule for the completion of necessary corrective actions within 270 days after the effective date of this Agreed Order. The Respondent shall provide a copy of the plan and schedule to Order Compliance Team of the TCEQ Enforcement Division and to the TCEQ Beaumont Regional Office; b. Within 60 days after the effective date of this Agreed Order, repair or replace the clarifier weir; c. Within 75 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.b.; and d. Within 360 days after the effective date of this Agreed Order, submit written certification of completion of the I/I mitigation and collection system rehabilitation work and demonstrate compliance with the effluent limits of TPDES Permit No. 10364010 and include detailed supporting documentation including photographs, receipts, DMRs, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.

Additional ID No(s).: TPDES Permit No. WQ0010364010

Attachment A
Docket Number: 2007-0787-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Port Arthur
Penalty Amount:	Eleven Thousand Eighty-Eight Dollars ($11,088)
Project 1 SEP Offset Amount:	Six Thousand Dollars ($6,000)
Type of SEP:	Wastewater Treatment Assistance (pre-approved concept)
Project 2 SEP Offset Amount:	Five Thousand Eighty-Eight Dollars ($5,088)
Project 2 Type of SEP:	Jefferson County *Pleasure Island Shoreline Stabilization* (pre-approved contribution)
Location of SEPs:	Jefferson County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for the Respondent to perform Supplemental Environmental Projects ("SEPs"). The SEP Offset Amounts are set forth above and such offsets are conditioned upon completion of the projects in accordance with the terms of this Attachment A.

1. Project Description

A. Project 1 – Wastewater Treatment Assistance

The Respondent shall provide first-time sewer service for one low-income household in Jefferson County. The Respondent shall properly decommission (empty and remove or backfill) the existing septic tank at no cost to the homeowner. The project shall include purchasing and installing sewer system piping, clean-outs, and other materials required to complete the work and make it fully operational. The Respondent shall perform this work only after-hours or on weekends, and contingent on submittal of appropriate documentation, shall receive SEP Offset credit for overtime labor of employees.

The Respondent shall perform this project in accordance with all federal, state and local environmental laws and regulations. The Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall 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.

Project 2 – Pleasure Island Shoreline Stabilization

Respondent shall contribute the specified SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be to ***Jefferson County*** for the *Pleasure Island Shoreline Stabilization Program* in Jefferson County. Specifically, SEP monies will be used to help stabilize the shoreline by placing vinyl sheets of piling and erosion control blankets along a stretch of waterway along Pleasure Island. Continued erosion from wave action caused by passing ships is compromising the integrity of the shoreline along Pleasure Island. The embankment will be reclaimed and sloped to stabilize approximately 5 miles of shoreline.

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. Project 1 - Environmental Benefit

This SEP will provide a discernible environmental benefit by preventing the release of sewage into the environment. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

People can be exposed through:

- Sewage in drinking water sources.
- Direct contact in areas of public access such as basements, lawns or streets, or waters used for recreation.
- Shellfish harvested from areas contaminated by raw sewage.
- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

Project 2 - Environmental Benefit

This project seeks to correct existing erosion problems along the Pleasure Island Shoreline and will result in less silt and turbidity in these coastal waters. Improving the waterway will promote bird and aquatic life, and make the area safer for recreational uses.

C. Minimum Expenditure

The Respondent shall spend at least the SEP Offset Amounts to complete the projects described above and comply with all other provisions of this Attachment A. Respondent understands that it may spend more than the SEP Offset Amounts to complete the custom project.

2. Performance Schedule

Project 1 – Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin implementation of Project 1. The Respondent shall complete Project 1 within 365 days after the effective date of this Agreed Order.

Project 2 - Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall contribute the SEP Amount for Project 2 to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order to:

Jefferson County
The Honorable Ron Walker
Jefferson County Judge
1149 Pearl Street, 4th Floor
Beaumont, Texas 77701

The Respondent shall simultaneously provide proof of the contribution to the TCEQ at the address listed in 3.C below.

3. Reporting

A. Progress Reports

Within 90 days after the effective date of this Agreed Order, the Respondent shall submit a report to the TCEQ indicating the progress made to date for Project 1 and setting forth a schedule for achieving completion within the time required above. The Respondent shall submit reports on a quarterly basis thereafter in 90-day increments to TCEQ at the address listed below.

B. Final Report – Project 1

Within 30 days after completion of Project 1, the Respondent shall submit a report for that Project to the TCEQ which includes:

1. An itemized list of expenditures and total of costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. Evidence of proper decommissioning of the existing septic system(s);
3. Photographs of the project;
4. A statement of quantifiable environmental benefits; and
5. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

Final Report – Project 2

Within 30 days after the effective date of this Agreed Order, the Respondent shall provide to TCEQ a final report indicating that the contribution for Project 2 has been completed. The final report for Project 2 shall be mailed to the address listed in 3.C, below.

C. Address

The Respondent shall submit all SEP reports and any requested additional information to the following address:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

The Respondent shall provide any additional information required by TCEQ staff and allow access to all records related to the receipt and expenditure of SEP funds. The Respondent shall also allow a representative of the TCEQ access to the site of any work being financed in whole or in part by SEP funds. This provision survives the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amounts 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 Offset Amounts.

In the event of incomplete performance, the Respondent shall send a check to TCEQ for the remaining amount due with the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the check payable to "Texas Commission on Environmental Quality" and mail it to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

6. 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.

7. Clean Texas Program

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

8. Other SEPs by TCEQ or Other Agencies

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

Penalty Calculation Worksheet (PCW)

TCEQ

Policy Revision 2 (September 2002) — *PCW Revision April 26, 2007*

DATES						
Assigned	23-Apr-2007					
PCW	13-Jul-2007	Screening	17-May-2007	EPA Due		

RESPONDENT/FACILITY INFORMATION

Respondent	City of Port Arthur		
Reg. Ent. Ref. No.	RN101608024		
Facility/Site Region	10-Beaumont	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	33523	No. of Violations	4
Docket No.	2007-0787-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Pamela Campbell
Multi-Media		EC's Team	EnforcementTeam 1
Admin. Penalty $ Limit Minimum	$0	Maximum	$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* $9,900

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 40% Enhancement — *Subtotals 2, 3, & 7* $3,960

Notes: The Respondent has one NOV for the same violations and has seven months of self-reported effluent violations.

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

Notes: The Respondent does not meet the culpability criteria.

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

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

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

0% Enhancement* — *Subtotal 6* $0

**Capped at the Total EB $ Amount*

Total EB Amounts	$10,731
Approx. Cost of Compliance	$32,600

SUM OF SUBTOTALS 1-7 — *Final Subtotal* $13,860

OTHER FACTORS AS JUSTICE MAY REQUIRE — *Adjustment* $0

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

Notes:

Final Penalty Amount $13,860

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* $13,860

DEFERRAL — 20% Reduction — *Adjustment* -$2,772

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

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY $11,088

Screening Date 17-May-2007 **Docket No.** 2007-0787-MWD-E **PCW**

Respondent City of Port Arthur *Policy Revision 2 (September 2002)*

Case ID No. 33523 *PCW Revision April 26, 2007*

Reg. Ent. Reference No. RN101608024

Media [Statute] Water Quality

Enf. Coordinator Pamela Campbell

Compliance History Worksheet

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

Component	Number of...	*Enter Number Here*	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	8	40%
	Other written NOVs	0	0%
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) 40%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

The Respondent has one NOV for the same violations and has seven months of self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 40%

Screening Date 17-May-2007 **Docket No.** 2007-0787-MWD-E **PCW**

Respondent City of Port Arthur *Policy Revision 2 (September 2002)*

Case ID No. 33523 *PCW Revision April 26, 2007*

Reg. Ent. Reference No. RN101608024

Media [Statute] Water Quality

Enf. Coordinator Pamela Campbell

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10364010 Operational Requirements No. 1

Violation Description Failed to properly maintain the collection system. Specifically, the Respondent has failed to mitigate the effects of inflow and infiltration ("I/I") on the Facility by exceeding 75% of its permitted daily average flow limit of 0.3 million gallons per day ("MGD") in May 2004, December 2004, and February 2005 and exceeding its flow limits in February 2004 (0.335 MGD). A review of self-reported data documented daily maximum flow values greater than the daily average flow limit in February and March 2004, May and June 2004, September 2004 through March 2005, July 2005, November and December 2005, June and July 2006, and September 2006. Also, the mixed liquor volatile suspended solids ratio was 49% of the mixed liquor suspended solids, below the recommended range of 70 - 80%, which is indicative of the I/I impact on the Facility.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of these violations.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 1 | 86 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $1,000

One quarterly event is recommended from the investigation date (February 20, 2007) to the screening date (May 17, 2007).

Economic Benefit (EB) for this violation

Estimated EB Amount $6,770

Statutory Limit Test

Violation Final Penalty Total $1,400

This violation Final Assessed Penalty (adjusted for limits) $1,400

Economic Benefit Worksheet

Respondent City of Port Arthur
Case ID No. 33523
Reg. Ent. Reference No. RN101608024
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction	$20,000	1-Feb-2004	1-Dec-2008	4.8	$322	$6,447	$6,770
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: This is the estimated cost to prepare and implement a plan to mitigate the effects of I/I on the Facility. Date required is the initial date of noncompliance. Final date is the estimated date of compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance: $20,000

TOTAL: $6,770

Screening Date 17-May-2007 **Docket No.** 2007-0787-MWD-E **PCW**

Respondent City of Port Arthur *Policy Revision 2 (September 2002)*

Case ID No. 33523 *PCW Revision April 26, 2007*

Reg. Ent. Reference No. RN101608024

Media [Statute] Water Quality

Enf. Coordinator Pamela Campbell

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(5) and TPDES Permit No. 10364010 Operational Requirements No. 1

Violation Description Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. Specifically, the clarifier weir was corroded and the sawtooth weir was not bolted down in several places, causing the clarifier to short circuit. The skimmer arm was not contacting adequately, allowing solids to bypass, and the weir trough had excessive solids in it. The Facility lift station had an excessive grease buildup and there was no vacuum breaker on the hose bibb at the Highway 87 lift station.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			x

Percent 5%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment will or could be exposed to insignificant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of these violations.

Adjustment $9,500

$500

Violation Events

Number of Violation Events 3 | 1143 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $1,500

Three single events are recommended, one each for the weir, Facility lift station, and the Highway 87 lift station.

Economic Benefit (EB) for this violation

Estimated EB Amount $3,442

Statutory Limit Test

Violation Final Penalty Total $2,100

This violation Final Assessed Penalty (adjusted for limits) $2,100

Economic Benefit Worksheet

Respondent City of Port Arthur
Case ID No. 33523
Reg. Ent. Reference No. RN101608024
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment	$10,000	1-Feb-2004	31-Dec-2008	4.9	$164	$3,279	$3,442
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: This is the estimated cost to install the vacuum breaker, clean and dispose of grease at the plant lift station, repair or replace the clarifier weirs, and to implement a plan and schedule to mitigate the effects of I/I on the collection system. The date required is the date that the first flow violation occurred and the final date is the anticipated date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance: $10,000

TOTAL: $3,442

Screening Date 17-May-2007 **Docket No.** 2007-0787-MWD-E **PCW**

Respondent City of Port Arthur *Policy Revision 2 (September 2002)*

Case ID No. 33523 *PCW Revision April 26, 2007*

Reg. Ent. Reference No. RN101608024

Media [Statute] Water Quality

Enf. Coordinator Pamela Campbell

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a) and TPDES Permit No. 10364010 Permit Conditions No. 2(g)

Violation Description Failed to prevent the unauthorized discharge of wastewater. Specifically, the Respondent reported three unauthorized discharges in 2004 (January 25-26, and February 12); three unauthorized discharges in 2005 (June 24, December 6, and December 14); and one unauthorized discharge in 2007 (January 30).

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

	Release	Harm: Major	Moderate	Minor
OR	Actual			x
	Potential			

Percent 10%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: Human health or the environment has been exposed to insignificant amounts of pollutants as a result of this violation.

Adjustment $9,000

$1,000

Violation Events

Number of Violation Events 7 | 7 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $7,000

Seven single events are recommended.

Economic Benefit (EB) for this violation

Estimated EB Amount $504

Statutory Limit Test

Violation Final Penalty Total $9,800

This violation Final Assessed Penalty (adjusted for limits) $9,800

Economic Benefit Worksheet

Respondent City of Port Arthur
Case ID No. 33523
Reg. Ent. Reference No. RN101608024
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment	$2,000	25-Jan-2004	12-Feb-2007	3.1	$20	$407	$427
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System				0.0	$0	n/a	$0
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal	$500	25-Jan-2004	12-Feb-2007	3.1	$76	n/a	$76
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: This is the estimated cost to repair blocked and/or broken collection system lines, remove and properly dispose of any debris, and disinfect the affected areas. The date required is the date of the first unauthorized discharge and the final date is the date that the last reported discharge was remediated.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance: $2,500

TOTAL: $504

Screening Date	17-May-2007	**Docket No.** 2007-0787-MWD-E	**PCW**
Respondent	City of Port Arthur		*Policy Revision 2 (September 2002)*
Case ID No.	33523		*PCW Revision April 26, 2007*
Reg. Ent. Reference No.	RN101608024		
Media [Statute]	Water Quality		
Enf. Coordinator	Pamela Campbell		

Violation Number 4

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(17), 319.7(a)(4) and (c) and TPDES Permit No. 10364010 Monitoring and Reporting Requirements Nos. 1 and 3(b)

Violation Description Failed to accurately complete the discharge monitoring reports ("DMRs") and have them readily available for review. Specifically, the Respondent failed to put the maximum total chlorine residual results on the February and May 2004 DMRs and failed to submit the June 2005 and October 2006 DMRs to the TCEQ. Also, the October 2006 DMR could not be located at the time of the investigation.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: Approximately 70% of the rule requirement was met.

Adjustment $9,900

$100

Violation Events

Number of Violation Events 4

120 Number of violation days

mark only one with an x

daily	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $400

Four single events are recommended, one for each DMR.

Economic Benefit (EB) for this violation

Estimated EB Amount $15

Statutory Limit Test

Violation Final Penalty Total $560

This violation Final Assessed Penalty (adjusted for limits) $560

Economic Benefit Worksheet

Respondent City of Port Arthur
Case ID No. 33523
Reg. Ent. Reference No. RN101608024
Media Water Quality
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	$0	$0	$0
Buildings				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0
Engineering/construction				0.0	$0	$0	$0
Land				0.0	$0	n/a	$0
Record Keeping System	$100	20-Mar-2004	12-Mar-2007	3.0	$15	n/a	$15
Training/Sampling				0.0	$0	n/a	$0
Remediation/Disposal				0.0	$0	n/a	$0
Permit Costs				0.0	$0	n/a	$0
Other (as needed)				0.0	$0	n/a	$0

Notes for DELAYED costs: This is the estimated cost the Respondent incurred to properly prepare and resubmit the DMRs to the TCEQ. The date required is the date of the first noncompliance and the final date is the date that the Respondent returned to compliance.

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

Disposal				0.0	$0	$0	$0
Personnel				0.0	$0	$0	$0
Inspection/Reporting/Sampling				0.0	$0	$0	$0
Supplies/equipment				0.0	$0	$0	$0
Financial Assurance [2]				0.0	$0	$0	$0
ONE-TIME avoided costs [3]				0.0	$0	$0	$0
Other (as needed)				0.0	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance: $100

TOTAL: $15

Compliance History

Customer/Respondent/Owner-Operator:	CN600132021	City of Port Arthur	Classification: AVERAGE	Rating: 7.52
Regulated Entity:	RN101608024	SABINE PASS FACILITY	Classification: AVERAGE	Site Rating: 0.44
ID Number(s):	WASTEWATER	PERMIT	WQ0010364010	
	WASTEWATER	PERMIT	TPDES0024201	
	WASTEWATER	PERMIT	TX0024201	
	WASTEWATER LICENSING	LICENSE	WQ0010364010	
Location:	5137 S 4TH AVE APPROX 0.3 MI N OF TREMONT ST IN JEFFERSON COUNTY		Rating Date: 9/1/2006	Repeat Violator: NO
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	June 27, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 27, 2002 to June 27, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name: Pamela Campbell	Phone:	512 239-4493		

Site Compliance History Components

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

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
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 07/19/2002 (169529)
2 08/23/2002 (169532)
3 09/20/2002 (169535)
4 10/24/2002 (169538)
5 11/20/2002 (169542)
6 12/20/2002 (300189)
7 01/22/2003 (169549)
8 02/26/2003 (169513)
9 03/31/2003 (169516)
10 04/22/2003 (300174)
11 05/20/2003 (300177)
12 06/23/2003 (300179)
13 07/22/2003 (300181)
14 08/22/2003 (300183)
15 09/19/2003 (300185)
16 10/21/2003 (300187)
17 11/19/2003 (300188)
18 12/17/2003 (300190)
19 01/21/2004 (300191)
20 02/23/2004 (300171)
21 03/18/2004 (261512)
22 03/22/2004 (300173)
23 04/22/2004 (354044)
24 05/19/2004 (354045)
25 06/21/2004 (354046)
26 07/22/2004 (354047)
27 09/02/2004 (354048)
28 09/21/2004 (354049)
29 10/14/2004 (336548)
30 10/19/2004 (354050)
31 11/29/2004 (382940)
32 12/20/2004 (382941)
33 01/12/2005 (345988)
34 01/20/2005 (382942)
35 02/15/2005 (420749)
36 03/18/2005 (382939)
37 04/25/2005 (420750)
38 05/18/2005 (420751)
39 06/20/2005 (420752)
40 08/24/2005 (441742)
41 09/13/2005 (441743)
42 10/18/2005 (470265)
43 11/21/2005 (470266)
44 12/19/2005 (470267)
45 01/19/2006 (470268)
46 02/17/2006 (470263)
47 03/22/2006 (470264)
48 04/13/2006 (499361)
49 05/15/2006 (499362)
50 06/14/2006 (499363)
51 07/13/2006 (499364)

52 08/28/2006 (521405)
53 09/15/2006 (521406)
54 10/16/2006 (545938)
55 12/15/2006 (545939)
56 04/18/2007 (556215)

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

Date: 09/30/2002 (169538)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2002 (169542)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2004 (300171)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 02/29/2004 (300173)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 03/19/2004 (261512)
Self Report? NO Classification: Minor
Rqmt Prov: PERMIT WQ 10364-010
Description: Failure by the City of Port Arthur to appropriately manage the solids inventory within the Sabine Pass WWTP. On 01/20/2004, the return activated sludge contained a MLSS concentration of 15,700 mg/l. Accepted industry standards are between 2000 and 6000 mg/l MLSS, for an extended aeration plant.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT WQ 10364-010
Description: Failure to properly maintain the collection system.
Self Report? NO Classification: Moderate
Rqmt Prov: PERMIT WQ 10364-010
Description: Since the 09/17/2001 CCI, the permittee reported five unauthorized discharges (UD) from the Sabine Pass collection system. Two of the five UDs were attributed to rainfall, and the remaining three were reported as a result of line failure. Four of the five UDs were located at 4600 Mechanic.

Date: 03/31/2004 (354044)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2005 (420751)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2005 (470266)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.
N/A

G. Type of environmental management systems (EMSs).
N/A

H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.
N/A

J. Early compliance.
N/A

Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN ENFORCEMENT ACTION CONCERNING CITY OF PORT ARTHUR RN101608024	§ § § § §	**BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2007-0787-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 Port Arthur ("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, represented by the Honorable Carl Parker of The Parker Law Firm, appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment facility located at 5137 South 4th Avenue approximately 0.3 mile north of Tremont Street in Jefferson County, Texas (the "Facility").

2. The City has discharged sewage into or adjacent to any water in the state under TEX. WATER CODE ch. 26.

3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.

4. The City received notice of the violations alleged in Section II ("Allegations") on or about April 23, 2007.

5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Thirteen Thousand Eight Hundred Sixty Dollars ($13,860) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Two Thousand Seven Hundred Seventy-Two Dollars ($2,772) 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. Eleven Thousand Eighty-Eight Dollars ($11,088) 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 the City has implemented the following corrective measures at the Facility:

   a. On or about January 27, 2004, cleared the blockage, removed and disposed of the debris, and chlorinated the area affected by the January 25 and 26, 2004 unauthorized discharges;

   b. On February 12, 2004, removed and disposed of the debris, and chlorinated the drainage ditch affected by the February 12, 2004 unauthorized discharge;

   c. On or about June 24, 2005, repaired the broken force main, removed and disposed of the debris, and chlorinated the area affected by the June 24, 2005 unauthorized discharge;

   d. On December 6, 2005, removed and disposed of the debris, and chlorinated the drainage ditch affected by the December 6, 2005 unauthorized discharge;

   e. On December 14, 2005, removed and disposed of the debris, and chlorinated the drainage ditch affected by the December 14, 2005 unauthorized discharge;

   f. On or about February 12, 2007, power was restored to the lift station, removed and disposed of the debris, and chlorinated the area affected by the January 30, 2007 unauthorized discharge;

   g. On March 12, 2007, submitted photographic documentation that the on-site lift station had been cleaned;

   h. On March 12, 2007, submitted photographic documentation showing that a vacuum breaker had been installed on the hose bibb at the Highway 87 lift station;

   i. On February 20, 2007, corrected the February 2004 and May 2004 discharge monitoring reports ("DMRs") and provided a copy of the June 2005 DMR;

   j. On March 12, 2007, submitted documentation that the skimmer arm had been adjusted, the sawtooth weir had been bolted down, and that the excess solids had been removed from the clarifier; and

k. On March 12, 2007, submitted a copy of the October 2006 DMR to the TCEQ Beaumont Regional Office.

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 properly maintain the collection system, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 10364010 Operational Requirements No. 1, as documented during the February 20, 2007 investigation. Specifically, the City has failed to mitigate the effects of inflow and infiltration ("I/I") on the Facility by exceeding 75% of its permitted daily average flow limit of 0.3 million gallons per day ("MGD") in May 2004, December 2004, and February 2005 and exceeding its flow limits in February 2004 (0.335 MGD). A review of self-reported data documented daily maximum flow values greater than the daily average flow limit in February and March 2004, May and June 2004, September 2004 through March 2005, July 2005, November and December 2005, June and July 2006, and September 2006. Also, the mixed liquor volatile suspended solids ratio was 49% of the mixed liquor suspended solids, below the recommended range of 70 - 80%, which is indicative of the I/I impact on the Facility.

2. Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. 10364010 Operational Requirements No. 1, as documented during the February 20, 2007 investigation. Specifically, the clarifier weir was corroded and the sawtooth weir was not bolted down in several places, causing the clarifier to short circuit. The skimmer arm was not contacting adequately, allowing solids to bypass, and the weir trough had excessive solids in it.

3. Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. 10364010 Operational Requirements No. 1, as documented during the February 20, 2007 investigation. Specifically, the facility lift station had an excessive grease buildup.

4. Failed to ensure that all systems of collection, treatment, and disposal are properly operated and maintained, in violation of 30 TEX. ADMIN. CODE § 305.125(5) and TPDES Permit No. 10364010

Operational Requirements No. 1, as documented during the February 20, 2007 investigation. Specifically, there was no vacuum breaker on the hose bibb at the Highway 87 lift station.

5. Failed to prevent the unauthorized discharge of wastewater, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a) and TPDES Permit No. 10364010 Permit Conditions No. 2(g), as documented during the February 20, 2007 investigation. Specifically, the City reported three unauthorized discharges in 2004 (January 25-26, and February 12); three unauthorized discharges in 2005 (June 24, December 6, and December 14); and one unauthorized discharge in 2007 (January 30).

6. Failed to accurately complete the DMRs and have them readily available for review, in violation of 30 TEX. ADMIN. CODE §§ 305.125(17), 319.7(a)(4) and (c) and TPDES Permit No. 10364010 Monitoring and Reporting Requirements Nos. 1 and 3(b), as documented during the February 20, 2007 investigation. Specifically, the City failed to put the maximum total chlorine residual results on the February and May 2004 DMRs and failed to submit the June 2005 and October 2006 DMRs to the TCEQ. Also, the October 2006 DMR could not be located at the time of the investigation.

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 Port Arthur, Docket No. 2007-0787-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, Eleven Thousand Eighty-Eight Dollars ($11,088) 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 60 days after the effective date of this Agreed Order, conduct an engineering evaluation of the collection system and wastewater treatment plant to evaluate the causes and necessary corrective actions to reduce the I/I on the collection system and to maintain compliance with the effluent limits of TPDES Permit No. 10364010. The evaluation shall be prepared by a Texas registered professional engineer and shall include a plan and schedule for the completion of necessary corrective actions within 270 days after the effective date of this Agreed Order. The City shall provide a copy of the plan and schedule to Order Compliance Team of the TCEQ Enforcement Division and to the TCEQ Beaumont Regional Office;

b. Within 60 days after the effective date of this Agreed Order, repair or replace the clarifier weir;

c. Within 75 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.b.;

d. Within 360 days after the effective date of this Agreed Order, submit written certification of completion of the I/I mitigation and collection system rehabilitation work and demonstrate compliance with the effluent limits of TPDES Permit No. 10364010 as described below and include detailed supporting documentation including photographs, receipts, DMRs, and/or other records to demonstrate compliance with Ordering Provision No. 3.a.;

e. The written certification of compliance required by Ordering Provision Nos. 3.c. and 3.d., shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

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

4. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

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

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

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

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

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director

Date 1/23/2009

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

June 4, 2008
Date

Stephen Fitzgibbons
Name (Printed or typed)
Authorized Representative of
City of Port Arthur

City Manager
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2007-0787-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Port Arthur
Penalty Amount:	Eleven Thousand Eighty-Eight Dollars ($11,088)
Project 1 SEP Offset Amount:	Six Thousand Dollars ($6,000)
Type of SEP:	Wastewater Treatment Assistance (pre-approved concept)
Project 2 SEP Offset Amount:	Five Thousand Eighty-Eight Dollars ($5,088)
Project 2 Type of SEP:	Jefferson County *Pleasure Island Shoreline Stabilization* (pre-approved contribution)
Location of SEPs:	Jefferson County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for the Respondent to perform Supplemental Environmental Projects ("SEPs"). The SEP Offset Amounts are set forth above and such offsets are conditioned upon completion of the projects in accordance with the terms of this Attachment A.

1. Project Description

A. Project 1 – Wastewater Treatment Assistance

The Respondent shall provide first-time sewer service for one low-income household in Jefferson County. The Respondent shall properly decommission (empty and remove or backfill) the existing septic tank at no cost to the homeowner. The project shall include purchasing and installing sewer system piping, clean-outs, and other materials required to complete the work and make it fully operational. The Respondent shall perform this work only after-hours or on weekends, and contingent on submittal of appropriate documentation, shall receive SEP Offset credit for overtime labor of employees.

The Respondent shall perform this project in accordance with all federal, state and local environmental laws and regulations. The Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall 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.

Project 2 – Pleasure Island Shoreline Stabilization

Respondent shall contribute the specified SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be to ***Jefferson County*** for the *Pleasure Island Shoreline Stabilization Program* in Jefferson County. Specifically, SEP monies will be used to help stabilize the shoreline by placing vinyl sheets of piling and erosion control blankets along a stretch of waterway along Pleasure Island. Continued erosion from wave action caused by passing ships is compromising the integrity of the shoreline along Pleasure Island. The embankment will be reclaimed and sloped to stabilize approximately 5 miles of shoreline.

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. Project 1 - Environmental Benefit

This SEP will provide a discernible environmental benefit by preventing the release of sewage into the environment. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

People can be exposed through:

- Sewage in drinking water sources.
- Direct contact in areas of public access such as basements, lawns or streets, or waters used for recreation.
- Shellfish harvested from areas contaminated by raw sewage.
- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

Project 2 - Environmental Benefit

This project seeks to correct existing erosion problems along the Pleasure Island Shoreline and will result in less silt and turbidity in these coastal waters. Improving the waterway will promote bird and aquatic life, and make the area safer for recreational uses.

C. Minimum Expenditure

The Respondent shall spend at least the SEP Offset Amounts to complete the projects described above and comply with all other provisions of this Attachment A. Respondent understands that it may spend more than the SEP Offset Amounts to complete the custom project.

2. Performance Schedule

Project 1 – Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin implementation of Project 1. The Respondent shall complete Project 1 within 365 days after the effective date of this Agreed Order.

Project 2 - Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall contribute the SEP Amount for Project 2 to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order to:

Jefferson County
The Honorable Ron Walker
Jefferson County Judge
1149 Pearl Street, 4th Floor
Beaumont, Texas 77701

The Respondent shall simultaneously provide proof of the contribution to the TCEQ at the address listed in 3.C below.

3. Reporting

A. Progress Reports

Within 90 days after the effective date of this Agreed Order, the Respondent shall submit a report to the TCEQ indicating the progress made to date for Project 1 and setting forth a schedule for achieving completion within the time required above. The Respondent shall submit reports on a quarterly basis thereafter in 90-day increments to TCEQ at the address listed below.

B. Final Report – Project 1

Within 30 days after completion of Project 1, the Respondent shall submit a report for that Project to the TCEQ which includes:

1. An itemized list of expenditures and total of costs incurred with receipts, copies of checks, or other verifying documentation attached;
2. Evidence of proper decommissioning of the existing septic system(s);
3. Photographs of the project;
4. A statement of quantifiable environmental benefits; and
5. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

Final Report – Project 2

Within 30 days after the effective date of this Agreed Order, the Respondent shall provide to TCEQ a final report indicating that the contribution for Project 2 has been completed. The final report for Project 2 shall be mailed to the address listed in 3.C, below.

C. Address

The Respondent shall submit all SEP reports and any requested additional information to the following address:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

The Respondent shall provide any additional information required by TCEQ staff and allow access to all records related to the receipt and expenditure of SEP funds. The Respondent shall also allow a representative of the TCEQ access to the site of any work being financed in whole or in part by SEP funds. This provision survives the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amounts 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 Offset Amounts.

In the event of incomplete performance, the Respondent shall send a check to TCEQ for the remaining amount due with the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the check payable to "Texas Commission on Environmental Quality" and mail it to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

6. 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.

7. Clean Texas Program

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

8. Other SEPs by TCEQ or Other Agencies

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