

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2008-1343-MWD-E TCEQ ID: RN101919140 CASE NO.: 36405**

**RESPONDENT NAME: City of Eustace**

<b>ORDER TYPE:</b>		
<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	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> City of Eustace WWTP, located approximately 800 feet east of the intersection of Cornelius Lane and Smith Street, southeast of midtown Eustace, Henderson County</p> <p><b>TYPE OF OPERATION:</b> Domestic wastewater treatment facility</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on June 1, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> Ms. Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223  <b>TCEQ Enforcement Coordinator:</b> Ms. Lanae Foard, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2554; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> The Honorable Laura R. Ward, Mayor, City of Eustace, P.O. Box 579, Eustace, Texas 75124  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> July 22, 2008</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 6, 2008 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>Failure to comply with the permitted effluent limitations for biochemical oxygen demand, flow, total suspended solids, and fecal coliform [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit Nos. 11132001, Effluent Limitations and Monitoring Requirements No. 1 and WQ0014789001, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p><b>Total Assessed:</b> \$12,360</p> <p><b>Total Deferred:</b> \$2,472  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$9,888</p> <p><b>Total Paid (Due) to General Revenue:</b> \$0</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></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, 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. WQ0014789001, 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.</p>

Additional ID No(s): WQ0014789001, TX0027481

Attachment A

Docket Number: 2008-1343-MWD-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	City of Eustace
<b>Penalty Amount:</b>	Nine Thousand Eight Hundred Eighty-Eight Dollars (\$9,888)
<b>SEP Offset Amount:</b>	Nine Thousand Eight Hundred Eighty-Eight Dollars (\$9,888)
<b>Type of SEP:</b>	Custom (with pre-approved concept)
<b>Location of SEP:</b>	Henderson 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 a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

A. Project

The Respondent shall provide first-time central sewer service to three low-income residences that are currently utilizing failing or inadequately designed septic systems. SEP monies will be used to pay for a private contractor to install low-pressure systems to each of the residences, to connect the residences to central sewer, and to properly decommission the existing septic tanks and drain field systems. The Respondent shall ensure that this project is performed in accordance with all federal, state and local environmental laws and regulations

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by preventing the release of improperly treated sewage into the environment. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminths (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 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.

C. Minimum Expenditure

The Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this Attachment A. The Respondent understands that it may be required to spend more than the Offset Amount to complete this project. SEP monies will be used to pay for the associated labor and materials costs, according to TCEQ expenditure restrictions on the use of SEP funds. 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.

2. **Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent will begin implementation of this SEP. The Respondent shall complete the project within one year after the effective date of this Order.

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 and setting forth a schedule for achieving completion within the time required above.

B. Final Report

Within 30 days after completion of the project, the Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, and all other verifying documentation attached;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;
4. A statement that the Respondent verified that the recipient homeowners are low-income;
5. Number of residences connected to central sewer;
6. Map showing specific location of residences;
7. Before and after photographs of the project; and
8. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.



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 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.

In the event of incomplete performance, the Respondent shall submit a check for any amount due with a notation that the payment is for a "SEP Refund", and the docket number of the case. The Respondent shall make the check out to ATexas 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)

Policy Revision 2 (September 2002)

PCW Revision June 12, 2008

**TCEQ**

<b>DATES</b>	Assigned	11-Aug-2008	Screening	15-Aug-2008	EPA Due	
	PCW	15-Aug-2008				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	City of Eustace
Reg. Ent. Ref. No.	RN101919140
Facility/Site Region	5-Tyler
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	36405	No. of Violations	1
Docket No.	2008-1343-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Lanae Foard
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** **Subtotal 1**

**ADJUSTMENTS (+/-) TO SUBTOTAL 1**

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

**Compliance History**  **Subtotals 2, 3, & 7**

Notes: An enhancement is recommended due to 41 NOVs for self-reported effluent data, two non-similar NOVs, and one agreed order without denial.

**Culpability**   **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** **Subtotal 5**

**Economic Benefit**  **Subtotal 6**

Total EB Amounts   
 Approx. Cost of Compliance   
 \*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** **Final Subtotal**

**OTHER FACTORS AS JUSTICE MAY REQUIRE**  **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

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

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

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

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY**

**Screening Date** 15-Aug-2008

**Docket No.** 2008-1343-MWD-E

**PCW**

**Respondent** City of Eustace

Policy Revision 2 (September 2002)

**Case ID No.** 36405

PCW Revision June 12, 2008

**Reg. Ent. Reference No.** RN101919140

**Media [Statute]** Water Quality

**Enf. Coordinator** Lanae Foard

### 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)	41	205%
	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	1	25%
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)** 234%

>> **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**

An enhancement is recommended due to 41 NOVs for self-reported effluent data, two non-similar NOVs, and one agreed order without denial.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 234%

<b>Screening Date</b> 15-Aug-2008	<b>Docket No.</b> 2008-1343-MWD-E	<b>PCW</b>												
<b>Respondent</b> City of Eustace	<i>Policy Revision 2 (September 2002)</i>													
<b>Case ID No.</b> 36405	<i>PCW Revision June 12, 2008</i>													
<b>Reg. Ent. Reference No.</b> RN101919140														
<b>Media [Statute]</b> Water Quality														
<b>Enf. Coordinator</b> Lanae Foard														
<b>Violation Number</b> <input type="text" value="1"/>														
<b>Rule Cite(s)</b>	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit Nos. 11132001, Effluent Limitations and Monitoring Requirements No. 1 and WQ0014789001, Effluent Limitations and Monitoring Requirements No. 1													
<b>Violation Description</b>	Failed to comply with the permitted effluent limitations, as shown in the attached table.													
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>												
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>														
OR	<b>Harm</b>													
	Release	Major    Moderate    Minor												
	Actual	<input type="text"/> <input type="text"/> <input checked="" type="checkbox"/>												
	Potential	<input type="text"/> <input type="text"/> <input type="text"/>												
<b>Percent</b>		<input type="text" value="10%"/>												
<b>&gt;&gt; Programmatic Matrix</b>														
	Falsification	Major    Moderate    Minor												
	<input type="text"/>	<input type="text"/> <input type="text"/> <input type="text"/>												
<b>Percent</b>		<input type="text" value="0%"/>												
<b>Matrix Notes</b>	A simplified model was used to evaluate biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded protective levels. Daily average flow, ammonia nitrogen, total suspended solids, and fecal coliform values were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which did not exceed levels protective of human health or environmental receptors.													
<b>Adjustment</b>		<input type="text" value="\$9,000"/>												
		<input type="text" value="\$1,000"/>												
<b>Violation Events</b>														
<b>Number of Violation Events</b>	<input type="text" value="4"/>	<b>Number of violation days</b>												
	<input type="text" value="305"/>													
<i>mark only one with an x</i>	<table style="width:100%; border-collapse: collapse;"> <tr><td style="text-align: center;">daily</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">monthly</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">quarterly</td><td style="text-align: center;"><input checked="" type="checkbox"/></td></tr> <tr><td style="text-align: center;">semiannual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">annual</td><td style="text-align: center;"><input type="text"/></td></tr> <tr><td style="text-align: center;">single event</td><td style="text-align: center;"><input type="text"/></td></tr> </table>	daily	<input type="text"/>	monthly	<input type="text"/>	quarterly	<input checked="" type="checkbox"/>	semiannual	<input type="text"/>	annual	<input type="text"/>	single event	<input type="text"/>	<b>Violation Base Penalty</b>
daily	<input type="text"/>													
monthly	<input type="text"/>													
quarterly	<input checked="" type="checkbox"/>													
semiannual	<input type="text"/>													
annual	<input type="text"/>													
single event	<input type="text"/>													
		<input type="text" value="\$4,000"/>												
Four quarterly events are recommended.														
<b>Good Faith Efforts to Comply</b>														
<b>0.0% Reduction</b>		<input type="text" value="\$0"/>												
	Before NOV    NOV to EDPRP/Settlement Offer													
Extraordinary	<input type="text"/> <input type="text"/>													
Ordinary	<input type="text"/> <input type="text"/>													
N/A	<input checked="" type="checkbox"/> (mark with x)													
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.													
<b>Violation Subtotal</b>		<input type="text" value="\$4,000"/>												
<b>Economic Benefit (EB) for this violation</b>														
<b>Statutory Limit Test</b>														
<b>Estimated EB Amount</b>	<input type="text" value="\$13,712"/>	<b>Violation Final Penalty Total</b>												
		<input type="text" value="\$12,360"/>												
<b>This violation Final Assessed Penalty (adjusted for limits)</b>		<input type="text" value="\$12,360"/>												

## Economic Benefit Worksheet

**Respondent** City of Eustace  
**Case ID No.** 36405  
**Reg. Ent. Reference No.** RN101919140  
**Media** Water Quality  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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	\$100,000	1-May-2007	15-Apr-2009	1.96	\$653	\$13,059	\$13,712
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to replace approximately 1,000 feet of clay pipe and replace 4 endcaps to reduce infiltration and inflow and to replace a defective chlorine drip in order to achieve compliance with permitted effluent limitations. Date required is the first month of noncompliance. 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    \$100,000    **TOTAL**    \$13,712

EFFLUENT VIOLATION TABLE											
City of Eustace											
TPDES Permit Nos. 11132001 and WQ0014789001											
Docket No. 2008-1343-MWD-E											
Permitted Effluent Limits	Monitoring Period End Date										
	5/31/07	7/31/07	9/30/07	10/31/07	11/30/07	12/31/07	1/31/08	2/29/08	3/31/08	4/30/08	
Permit No. 11132001											
BOD daily avg. loading Limit = 15 lbs/day	22.5	c	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Flow daily avg. Limit = 0.06 MGD	0.066	0.108	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Permit No. WQ0014789001											
BOD daily avg. loading Limit = 31 lbs/day	N/A	N/A	c	c	c	c	c	c	c	c	37.5
BOD daily avg. conc. Limit = 30 mg/L	N/A	N/A	c	c	c	c	40.1	46.2	c	c	59.9
BOD single grab Limit = 100 mg/L	N/A	N/A	c	c	c	c	c	c	c	c	103
TSS daily avg. conc. Limit = 90 mg/L	N/A	N/A	c	c	c	c	c	c	c	c	103.8
Fecal Coliform daily avg. conc. Limit = 200 cfu/100mL	N/A	N/A	889	1638	311	1363	485	1613	591	591	384
Fecal Coliform single grab Limit = 800 cfu/100mL	N/A	N/A	6000	6000	5800	6000	6000	6000	6000	6000	6000

avg. = average  
c = compliant  
conc. = concentration  
lbs/day = pounds per day  
mg/L = milligrams per liter  
cfu = colony forming unit

BOD = biochemical oxygen demand  
TSS = total suspended solids  
MGD = million gallons per day  
N/A = Not Applicable



# Compliance History

Customer/Respondent/Owner-Operator:	CN600667125	City of Eustace	Classification: AVERAGE	Rating: 3.07
Regulated Entity:	RN101919140	CITY OF EUSTACE WWTP	Classification: AVERAGE	Site Rating: 3.07
ID Number(s):	WASTEWATER	PERMIT		WQ0011132001
	WASTEWATER	PERMIT		TPDES0027481
	WASTEWATER	PERMIT		TX0027481
	WASTEWATER	PERMIT		WQ0014789001
	WASTEWATER	PERMIT		TX0027481
	WASTEWATER LICENSING	LICENSE		WQ0011132001
Location:	LOCATED APPROX 800' E OF THE INTERSECTION OF CORNELIUS LANE AND SMITH STREET SE OF MIDTOWN EUSTACE IN HENDERSON CO, TEXAS			Rating Date: September 01 07 Repeat Violator: NO
TCEQ Region:	REGION 05 - TYLER			
Date Compliance History Prepared:	August 14, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	August 14, 2003 to August 31, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Lanae Foard	Phone:	512-239-2554	

## Site Compliance History Components

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

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
- |  |                            |
|--|----------------------------|
| Effective Date: 05/23/2005   | ADMINORDER 2003-0334-MWD-E |
| Classification: Moderate   |                            |
| Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)                      |                            |
| TWC Chapter 26 26.121(a)   |                            |
| Rqmt Prov: TPDES PERMIT NO. 11132-001 PERMIT                               |                            |
| Description: Failure to comply with permit limit for BOD5 at Outfall 001A. |                            |
- 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  | 08/21/2003 | (302845) |
| 2  | 09/22/2003 | (302847) |
| 3  | 10/22/2003 | (302849) |
| 4  | 11/19/2003 | (302850) |
| 5  | 12/18/2003 | (302852) |
| 6  | 01/20/2004 | (302854) |
| 7  | 02/23/2004 | (302835) |
| 8  | 03/22/2004 | (302838) |
| 9  | 04/22/2004 | (302839) |
| 10 | 05/04/2004 | (270290) |
| 11 | 05/17/2004 | (302841) |
| 12 | 06/28/2004 | (355082) |
| 13 | 07/19/2004 | (355083) |
| 14 | 08/10/2004 | (355084) |
| 15 | 09/29/2004 | (355085) |
| 16 | 10/25/2004 | (355086) |
| 17 | 11/24/2004 | (355087) |
| 18 | 01/03/2005 | (383513) |
| 19 | 02/17/2005 | (383511) |
| 20 | 03/16/2005 | (383512) |

21 04/25/2005 (421361)  
 22 04/28/2005 (378815)  
 23 05/19/2005 (421362)  
 24 06/17/2005 (421363)  
 25 07/22/2005 (442350)  
 26 08/22/2005 (442351)  
 27 09/19/2005 (471332)  
 28 10/20/2005 (471333)  
 29 11/17/2005 (471334)  
 30 12/19/2005 (471335)  
 31 01/17/2006 (471336)  
 32 02/17/2006 (471329)  
 33 03/23/2006 (471330)  
 34 04/14/2006 (471331)  
 35 05/18/2006 (500056)  
 36 06/22/2006 (500057)  
 37 07/13/2006 (486377)  
 38 07/21/2006 (522165)  
 39 08/21/2006 (522166)  
 40 10/02/2006 (546832)  
 41 10/18/2006 (546833)  
 42 11/16/2006 (546834)  
 43 12/18/2006 (546835)  
 44 01/22/2007 (546836)  
 45 02/23/2007 (621002)  
 46 03/26/2007 (621003)  
 47 04/23/2007 (621004)  
 48 05/25/2007 (621005)  
 49 06/25/2007 (621006)  
 50 07/23/2007 (621007)  
 51 08/22/2007 (621008)  
 52 08/23/2007 (572759)

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

Date: 08/31/2003 (302847)  
 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: 09/30/2003 (302849)  
 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: 10/31/2003 (302850)  
 Self Report? -YES Classification: Moderate  
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)  
 TWC Chapter 26 26.121(a)  
 Description: Failure to meet the limit for one or more permit parameter  
 Date: 11/30/2003 (302852)  
 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: 12/31/2003 (302854)  
 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: 01/31/2004 (302835)  
 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: 02/29/2004 (302838)  
 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: 03/31/2004 (302839)

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:	04/30/2004 (302841)		
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:	05/31/2004 (355082)		
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:	06/30/2004 (355083)		
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 (355085)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	11/30/2004 (383513)		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	04/30/2005 (421362)		
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:	05/06/2005 (378815)		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 317 317.4(c)		
Description:	Failure to accurately measure the effluent flow rate.		
Date:	06/30/2005 (442350)		
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 (442351)		
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:	08/31/2005 (471332)		
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:	09/30/2005 (471333)		
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:	10/31/2005 (471334)		
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:	12/31/2005 (471336)		
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:	01/31/2006 (471329)		

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:	02/28/2006 (471330)		
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:	03/31/2006 (471331)		
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:	04/30/2006 (500056)		
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:	05/31/2006 (500057)		
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:	06/30/2006 (522165)		
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:	08/31/2006 (546832)		
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:	09/30/2006 (546833)		
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:	01/31/2007 (621002)		
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	03/31/2007 (621004)		
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	04/30/2007 (621005)		
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	05/31/2007 (621006)		
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	07/25/2007 (572759)		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.2		
Description:	Failure to maintain the lift stations and collection system.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.4(i)		
Description:	Failure to operate the treatment lagoons in a manner to prevent a buildup of solids.		

Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.5(e)(1)		
Description:	Failure to maintain the sludge drying beds in useable condition.		
Date:	07/31/2007 (621008)		
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	09/30/2007		
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:	10/31/2007		
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	11/30/2007		
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:	12/31/2007		
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:	01/31/2008		
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:	02/29/2008		
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:	03/31/2008		
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:	04/30/2008		
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		

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 EUSTACE  
RN101919140

§  
§  
§  
§  
§

BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY

AGREED ORDER  
DOCKET NO. 2008-1343-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 Eustace ("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 domestic wastewater treatment facility located approximately 800 feet east of the intersection of Cornelius Lane and Smith Street, southeast of midtown Eustace in Henderson 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 August 11, 2008.
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 Twelve Thousand Three Hundred Sixty Dollars (\$12,360) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). Two Thousand Four Hundred Seventy-Two Dollars (\$2,472) 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. Nine Thousand Eight Hundred Eighty-Eight Dollars (\$9,888) shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the City is alleged to have failed to comply with 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 Nos. 11132001, Effluent Limitations and Monitoring Requirements No. 1 and WQ0014789001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on July 22, 2008 and shown in the following table:

EFFLUENT VIOLATION TABLE										
Permitted Effluent Limits	Monitoring Period End Date									
	5/31/07	7/31/07	9/30/07	10/31/07	11/30/07	12/31/07	1/31/08	2/29/08	3/31/08	4/30/08
<b>Permit No. 11132001</b>										
BOD daily avg. loading Limit = 15 lbs/day	22.5	c	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Flow daily avg. Limit = 0.06 MGD	0.066	0.108	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<b>Permit No. WQ0014789001</b>										
BOD daily avg. loading Limit = 31 lbs/day	N/A	N/A	c	c	c	c	c	c	c	37.5
BOD daily avg. conc. Limit = 30 mg/L	N/A	N/A	c	c	c	c	40.1	46.2	c	59.9
BOD single grab Limit = 100 mg/L	N/A	N/A	c	c	c	c	c	c	c	103
TSS daily avg. conc. Limit = 90 mg/L	N/A	N/A	c	c	c	c	c	c	c	103.8
Fecal Coliform daily avg. conc. Limit = 200 cfu/100mL	N/A	N/A	889	1638	311	1363	485	1613	591	384
Fecal Coliform single grab Limit = 800 cfu/100mL	N/A	N/A	6000	6000	5800	6000	6000	6000	6000	6000

avg. = average  
c = compliant  
conc. = concentration  
lbs/day = pounds per day  
mg/L = milligrams per liter  
cfu = colony forming unit

BOD = biochemical oxygen demand  
TSS = total suspended solids  
MGD = million gallons per day  
N/A = Not Applicable

### 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 Eustace, Docket No. 2008-1343-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 an SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Nine Thousand Eight Hundred Eighty-Eight Dollars (\$9,888) of the assessed administrative penalty shall be offset with the condition that the City implements 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, within 90 days after the effective date of this Agreed Order, the City shall submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0014789001, 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 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 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  
Houston Regional Office  
Texas Commission on Environmental Quality  
5425 Polk Avenue, Suite H  
Houston, Texas 77023-1486

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.

City of Eustace  
DOCKET NO. 2008-1343-MWD-E  
Page 6

### SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

*[Handwritten Signature]*  
For the Executive Director

5/5/2009  
Date

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

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

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

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

*Laura R. Ward*  
Signature

01-16-2009  
Date

Laura R. Ward  
Name (Printed or typed)  
Authorized Representative of  
City of Eustace

MAYOR  
Title

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

Attachment A  
Docket Number: 2008-1343-MWD-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** City of Eustace  
**Penalty Amount:** Nine Thousand Eight Hundred Eighty-Eight Dollars (\$9,888)  
**SEP Offset Amount:** Nine Thousand Eight Hundred Eighty-Eight Dollars (\$9,888)  
**Type of SEP:** Custom (with pre-approved concept)  
**Location of SEP:** Henderson 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 a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

**1. Project Description**

**A. Project**

The Respondent shall provide first-time central sewer service to three low-income residences that are currently utilizing failing or inadequately designed septic systems. SEP monies will be used to pay for a private contractor to install low-pressure systems to each of the residences, to connect the residences to central sewer, and to properly decommission the existing septic tanks and drain field systems. The Respondent shall ensure that this project is performed in accordance with all federal, state and local environmental laws and regulations

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

**B. Environmental Benefit**

This SEP will provide a discernible environmental benefit by preventing the release of improperly treated sewage into the environment. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminths (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 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.

C. Minimum Expenditure

The Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this Attachment A. The Respondent understands that it may be required to spend more than the Offset Amount to complete this project. SEP monies will be used to pay for the associated labor and materials costs, according to TCEQ expenditure restrictions on the use of SEP funds. 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.

2. **Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent will begin implementation of this SEP. The Respondent shall complete the project within one year after the effective date of this Order.

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 and setting forth a schedule for achieving completion within the time required above.

B. Final Report

Within 30 days after completion of the project, the Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, and all other verifying documentation attached;
2. The total amount of costs incurred;
3. A statement of quantifiable environmental benefits;
4. A statement that the Respondent verified that the recipient homeowners are low-income;
5. Number of residences connected to central sewer;
6. Map showing specific location of residences;
7. Before and after photographs of the project; and
8. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

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 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.

In the event of incomplete performance, the Respondent shall submit a check for any amount due with a notation that the payment is for a "SEP Refund", and the docket number of the case. The Respondent shall make the check out to ATexas 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.