

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1552-MWD-E **TCEQ ID:** RN102845914 **CASE NO.:** 36575

RESPONDENT NAME: City of Cedar Park

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: City of Cedar Park WWTP, 2315 183-A Toll Road, Cedar Park, Williamson County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 13, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223 TCEQ Enforcement Coordinator: Ms. Danielle Porras, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-2602; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Greg White, Utility Superintendent, City of Cedar Park Water Reclamation Facility, 600 North Bell Boulevard, Cedar Park, Texas 78613 Ms. Brenda Eivens, City Manager, City of Cedar Park, 600 North Bell Boulevard, Cedar Park, Texas 78613 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 28, 2008</p> <p>Date of NOV/NOE Relating to this Case: August 22, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>Failure to prevent a discharge of a pollutant into water in the state. Specifically, on June 28, 2008, a failed fitting on the sodium hypochlorite tank at the Facility released approximately 4,000 gallons of sodium hypochlorite to the secondary containment structure. A valve was left open on the secondary containment structure, allowing the sodium hypochlorite to discharge into the chlorine contact chamber, through the outfall, and into Brushy Creek. Approximately 1,633 dead fish were observed in the creek where the discharge had occurred [TEX. WATER CODE § 26.121(d)].</p>	<p>Total Assessed: \$10,000</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$10,000</p> <p>Total Paid (Due) to General Revenue: \$0</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: Environmental receptors have been exposed to pollutants which exceed levels that are protective.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that on June 28, 2008 the City replaced the failed tank fitting and capped the secondary containment line. Normal discharge of treated effluent to the creek provided sufficient flushing of the sodium hypochlorite and rendered additional actions to adjust the pH of the creek water unnecessary.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p>

Additional ID No(s): WQ0012308001

Attachment A
Docket Number: 2008-1552-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Cedar Park
Penalty Amount: Ten Thousand Dollars (\$10,000)
SEP Offset Amount: Ten Thousand Dollars (\$10,000)
Type of SEP: Custom (with pre-approved concept)
Location of SEP: Williamson 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 hold a collection event to collect, properly dispose, or recycle household non-hazardous materials such as used motor oil, batteries, and antifreeze. The Respondent shall offer a convenient drop off location at no cost to the public. The event will be advertised in a local newspaper to increase public awareness of and participation in the event.

The Respondent shall ensure that the collection event:

- occurs on a weekend during daylight hours
- offers to the public a convenient drop-off location
- does not include collection of hazardous waste
- uses personnel or authorized contractors knowledgeable about appropriate methods for the collection, storage, and disposal of potentially hazardous waste
- is advertised in at least one newspaper of large circulation in the geographic area

The Respondent shall perform this project including collection, transport, storage, disposal of, or recycling of the collected materials in accordance with practices recommended by TCEQ and in accordance with all applicable federal, state and local laws and regulations. SEP funds will be used for equipment and hourly labor costs of employees where appropriate, public announcement of the event, authorized contractor costs, and disposal and recycling costs.

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.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of debris and waste that can leach chemicals into the soil, water, and air, which will help rid the community of the dangers and health threats associated with non-regulated dumping. The SEP will also provide for recycling of materials, which will help reduce valuable landfill space.

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 the project.

2. **Performance Schedule**

The Respondent shall complete the project within one year after the effective date of this Agreed Order.

3. **Reporting**

A. Progress Reports

Within 90 days after the effective date of this Agreed Order, the Respondent shall submit a progress report to the TCEQ indicating the progress made to date and setting forth a schedule for achieving completion within the time required above. The Respondent shall thereafter submit progress reports in 90-day increments until the project is completed.

B. Final Report

Within 60 days after completion of the project, the Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and total of costs incurred with receipts, copies of checks, and any other verifying documentation. Verifying documentation must include copies of actual timesheets for any labor costs.
2. Manifests showing proper transport and disposal or recycling of materials;
3. The quantity of materials collected such as number of tires, gallons of paint, etc;
4. Photographs of the project;
5. A statement of quantifiable environmental benefits; and
6. 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 expenditure of the SEP Offset 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 Offset Amount.

In the event that the Respondent does not spend the required SEP Offset Amount on the projects, the Respondent shall remit the remaining balance to TCEQ. The Respondent shall include the docket number of this Agreed Order and a note with the payment, explaining that the payment is for a SEP reimbursement. The check shall be made payable to "Texas Commission on Environmental Quality" and shall be mailed 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

DATES	Assigned	2-Sep-2008	Screening	23-Sep-2008	EPA Due	
	PCW	31-Oct-2008				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Cedar Park	
Reg. Ent. Ref. No.	RN102845914	
Facility/Site Region	11-Austin	Major/Minor Source Major

CASE INFORMATION

Enf./Case ID No.	36575	No. of Violations	1
Docket No.	2008-1552-MWD-E	Order Type	Findings
Media Program(s)	Municipal Wastewater Discharge	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Danielle Porras
		EC's Team	Enforcement Team 7
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$10,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	30.0% Enhancement	Subtotals 2, 3, & 7	\$3,000
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Notes The Respondent received two NOV's with same or similar violations and 10 NOV's for dissimilar violations.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$0
 Approx. Cost of Compliance \$371
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$13,000
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$13,000
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$10,000
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$10,000
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Screening Date 23-Sep-2008

Docket No. 2008-1552-MWD-E

PCW

Respondent City of Cedar Park

Policy Revision 2 (September 2002)

Case ID No. 36575

PCW Revision June 12, 2008

Reg. Ent. Reference No. RN102845914

Media [Statute] Municipal Wastewater Discharge

Enf. Coordinator Danielle Porras

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)	2	10%
	Other written NOVs	10	20%
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) 30%

>> **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 received two NOVs with same or similar violations and 10 NOVs for dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 30%

Economic Benefit Worksheet

Respondent City of Cedar Park
Case ID No. 36575
Reg. Ent. Reference No. RN102845914
Media Municipal Wastewater Discharge
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

Equipment	\$371	28-Jun-2008	28-Jun-2008	0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to repair the equipment that caused the spill to occur. The Date Required is the investigation date and the Final Date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$371

TOTAL

\$0

Screening Date 23-Sep-2008	Docket No. 2008-1552-MWD-E	PCW			
Respondent City of Cedar Park	<i>Policy Revision 2 (September 2002)</i>				
Case ID No. 38575	<i>PCW Revision June 12, 2008</i>				
Reg. Ent. Reference No. RN102845914					
Media [Statute] Municipal Wastewater Discharge					
Enf. Coordinator Danielle Porras					
Violation Number <input type="text" value="1"/>					
Rule Cite(s)	Tex. Water Code § 26.121(d)				
Violation Description	Failed to prevent a discharge of a pollutant into water in the state, as documented during an investigation conducted on June 28, 2008. Specifically, on June 28, 2008, a failed fitting on the sodium hypochlorite tank at the Facility released approximately 4,000 gallons of sodium hypochlorite to the secondary containment structure. A valve was left open on the secondary containment structure, allowing the sodium hypochlorite to discharge into the chlorine contact chamber, through the outfall, and into Brushy Creek. Approximately 1,633 dead fish were observed in the creek where the discharge had occurred.				
	Base Penalty	<input type="text" value="\$10,000"/>			
>> Environmental, Property and Human Health Matrix					
OR	Release	Major	Moderate	Minor	Percent <input type="text" value="100%"/>
	Actual	<input type="text" value="x"/>			
	Potential				
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	Percent <input type="text" value="0%"/>
Matrix Notes	Human health or the environment has been exposed to pollutants which exceed protective levels as a result of this violation.				
	Adjustment	<input type="text" value="\$0"/>			
					<input type="text" value="\$10,000"/>
Violation Events					
	Number of Violation Events	<input type="text" value="1"/>	<input type="text" value="1"/>	Number of violation days	
mark only one with an x	daily	<input type="text" value="x"/>			
	monthly				
	quarterly				
	semiannual				
	annual				
	single event				
	Violation Base Penalty	<input type="text" value="\$10,000"/>			
One daily event is recommended for the date of the discharge.					
Good Faith Efforts to Comply		0.0% Reduction			<input type="text" value="\$0"/>
		Before NOV	NOV to EDRP/Settlement Offer		
Extraordinary					
Ordinary					
N/A		x	(mark with x)		
Notes	The Respondent does not meet the good faith criteria for this violation.				
					Violation Subtotal <input type="text" value="\$10,000"/>
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount	<input type="text" value="\$0"/>		Violation Final Penalty Total	<input type="text" value="\$13,000"/>	
This violation Final Assessed Penalty (adjusted for limits)					<input type="text" value="\$10,000"/>

Compliance History

Customer/Respondent/Owner-Operator:	CN600407951	City of Cedar Park	Classification: AVERAGE	Rating: 2.72
Regulated Entity:	RN102845914	CITY OF CEDAR PARK WWTP	Classification: AVERAGE	Site Rating: 0.68
ID Number(s):	WASTEWATER	PERMIT		WQ0012308001
	WASTEWATER	PERMIT		TPDES0085740
	WASTEWATER	PERMIT		TX0085740
	WASTEWATER	PERMIT		WQ0012308001
	WASTEWATER LICENSING	LICENSE		WQ0012308001
	STORMWATER	PERMIT		TXRNEU032
Location:	2315 183A TOLL RD, CEDAR PARK, TX, 78613			Rating Date: September 01 07 Repeat Violator: NO
TCEQ Region:	REGION 11 - AUSTIN			
Date Compliance History Prepared:	September 08, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	September 08, 2003 to September 08, 2008			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Danielle Porras		Phone:	(512) 239-2602

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 | 09/18/2003 | (316738) | |
| | N/A | | |
| 2 | 10/17/2003 | (316740) | |
| 3 | 11/19/2003 | (316741) | |
| 4 | 12/19/2003 | (316743) | |
| 5 | 02/23/2004 | (316724) | |
| 6 | 03/22/2004 | (316726) | |
| 7 | 04/20/2004 | (316728) | |
| 8 | 05/17/2004 | (316730) | |
| 9 | 05/28/2004 | (316727) | |
| 10 | 06/21/2004 | (316732) | |
| 11 | 06/21/2004 | (316734) | |
| 12 | 08/16/2004 | (361048) | |
| 13 | 09/21/2004 | (361049) | |
| 14 | 10/12/2004 | (361052) | |
| 15 | 10/19/2004 | (361050) | |
| 16 | 11/19/2004 | (361051) | |
| 17 | 12/23/2004 | (386912) | |
| 18 | 02/22/2005 | (386910) | |

19 03/21/2005 (386911)
 20 04/18/2005 (424712)
 21 05/18/2005 (424713)

22 05/18/2005 (424715)
 23 05/18/2005 (424716)
 24 06/17/2005 (424714)
 25 08/17/2005 (445406)
 26 08/18/2005 (404300)
 27 09/16/2005 (445407)
 28 10/17/2005 (445408)
 29 11/21/2005 (586541)
 30 12/19/2005 (586543)
 31 02/21/2006 (586527)
 32 03/08/2006 (456990)
 33 03/20/2006 (586529)
 34 04/20/2006 (586531)
 35 05/19/2006 (586533)
 36 06/19/2006 (586535)
 37 07/18/2006 (586537)
 38 08/16/2006 (586538)
 39 09/18/2006 (586539)
 40 09/28/2006 (586545)
 41 10/19/2006 (586540)
 42 11/16/2006 (586542)
 43 11/30/2006 (511398)
 44 12/01/2006 (532109)
 45 12/07/2006 (533190)
 46 12/21/2006 (586544)
 47 01/30/2007 (536726)
 48 02/20/2007 (586528)
 49 03/07/2007 (542613)
 50 03/21/2007 (586530)
 51 04/13/2007 (586532)
 52 05/16/2007 (586534)
 53 06/20/2007 (586536)
 54 07/23/2007 (624452)
 55 07/23/2007 (624459)
 56 07/31/2007 (624454)
 57 08/20/2007 (624453)
 58 09/17/2007 (624455)
 59 10/17/2007 (624456)
 60 11/20/2007 (624457)
 61 12/19/2007 (624458)
 62 01/22/2008 (675371)
 63 02/20/2008 (675369)
 64 03/20/2008 (675370)
 65 04/18/2008 (693664)
 66 05/19/2008 (693665)
 67 08/25/2008 (684959)

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

Date 03/31/2004 (316728)
 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 07/31/2004 (361048)
 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	09/30/2004 (361050)		
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	10/31/2004 (361051)		
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	01/31/2005 (386910)		
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	02/28/2005 (386911)		
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	03/31/2005 (424712)		
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 (424713)		
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	05/31/2005 (424714)		
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	08/17/2005 (404300)		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Rqmt Prov:	PERMIT Effluent Limitations (2)		
Description:	Excess chlorine residual after dechlorination		
Self Report?	NO	Classification	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(4) 30 TAC Chapter 305, SubChapter F 305.125(5) TWC Chapter 26 26.121 TWC Chapter 26 26.121(a) TWC Chapter 26 26.121(a)(1) TWC Chapter 26 26.121(a)(2) TWC Chapter 26 26.121(a)(3) TWC Chapter 26 26.121(b) TWC Chapter 26 26.121(c) TWC Chapter 26 26.121(d) TWC Chapter 26 26.121(e)		
Rqmt Prov:	PERMIT Complainece 2 (g)		
Description:	Two unauthorized discharges and one bypass		
Date	08/31/2005 (445407)		
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 01/24/2007 (536726)
Self Report? NO Classification Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
Description: The City of Cedar Park reported an unauthorized discharge of 8,000 gallons of sewage from the collection system on December 12, 2005.

- 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 CEDAR PARK
RN102845914

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

**AGREED ORDER
DOCKET NO. 2008-1552-MWD-E**

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 Cedar Park ("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 Respondent presented this agreement to the Commission.

The City understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the City agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. 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. The duties and responsibilities imposed by this Agreed Order are binding upon the City.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The City owns and operates a wastewater treatment plant at 2315 183-A Toll Road in Cedar Park, Williamson 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. During an investigation on June 28, 2008, TCEQ staff documented an unauthorized discharge of a pollutant into water in the state. Specifically, on June 28, 2008, a failed fitting on the sodium hypochlorite tank at the Facility released approximately 4,000 gallons of sodium hypochlorite to the secondary containment structure. A valve was left open on the secondary containment structure allowing the sodium hypochlorite to discharge into the chlorine contact chamber, through the outfall, and into Brushy Creek. Approximately 1,633 dead fish were observed in the creek where the discharge had occurred.
4. The City received notice of the violations on August 27, 2008.
5. The Executive Director recognizes that on June 28, 2008 the City replaced the failed tank fitting and capped the secondary containment line. Normal discharge of treated effluent to the creek provided sufficient flushing of the sodium hypochlorite and rendered additional actions to adjust the pH of the creek water unnecessary.

II. CONCLUSIONS OF LAW

1. The City is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the City failed to prevent a discharge of a pollutant into water in the state, in violation of TEX. WATER CODE § 26.121(d).
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Ten Thousand Dollars (\$10,000) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Ten Thousand Dollars (\$10,000) shall be conditionally offset by the City's completion of a Supplemental Environmental Project.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The City is assessed an administrative penalty in the amount of Ten Thousand Dollars (\$10,000) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and

conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Cedar Park, Docket No. 2008-1552-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 Supplemental Environmental Project ("SEP") in accordance with TEX. WATER CODE § 7.067. As set forth in Section II (Conclusions of Law), Paragraph 4 above, Ten Thousand Dollars (\$10,000) 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. 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.
4. 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.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the 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.
6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.

7. 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.
8. 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.
9. 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.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

City of Cedar Park
DOCKET NO. 2008-1552-MWD-E
Page 5

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Sedlin
For the Executive Director

Date: 6/23/2009

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Cedar Park. I am authorized to agree to the attached Agreed Order on behalf of the City of Cedar Park, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Cedar Park waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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.

Brenda Eivens ^{KW} _{SPR}
Signature

5-27-09
Date

BRENDA EIVENS
Name (Printed or typed)
Authorized Representative of
City of Cedar Park

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: 2008-1552-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Cedar Park
Penalty Amount:	Ten Thousand Dollars (\$10,000)
SEP Offset Amount:	Ten Thousand Dollars (\$10,000)
Type of SEP:	Custom (with pre-approved concept)
Location of SEP:	Williamson 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 hold a collection event to collect, properly dispose, or recycle household non-hazardous materials such as used motor oil, batteries, and antifreeze. The Respondent shall offer a convenient drop off location at no cost to the public. The event will be advertised in a local newspaper to increase public awareness of and participation in the event.

The Respondent shall ensure that the collection event:

- occurs on a weekend during daylight hours
- offers to the public a convenient drop-off location
- does not include collection of hazardous waste
- uses personnel or authorized contractors knowledgeable about appropriate methods for the collection, storage, and disposal of potentially hazardous waste
- is advertised in at least one newspaper of large circulation in the geographic area

The Respondent shall perform this project including collection, transport, storage, disposal of, or recycling of the collected materials in accordance with practices recommended by TCEQ and in accordance with all applicable federal, state and local laws and regulations. SEP funds will be used for equipment and hourly labor costs of employees where appropriate, public announcement of the event, authorized contractor costs, and disposal and recycling costs.

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.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of debris and waste that can leach chemicals into the soil, water, and air, which will help rid the community of the dangers and health threats associated with non-regulated dumping. The SEP will also provide for recycling of materials, which will help reduce valuable landfill space.

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 the project.

2. Performance Schedule

The Respondent shall complete the project within one year after the effective date of this Agreed Order.

3. Reporting

A. Progress Reports

Within 90 days after the effective date of this Agreed Order, the Respondent shall submit a progress report to the TCEQ indicating the progress made to date and setting forth a schedule for achieving completion within the time required above. The Respondent shall thereafter submit progress reports in 90-day increments until the project is completed.

B. Final Report

Within 60 days after completion of the project, the Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and total of costs incurred with receipts, copies of checks, and any other verifying documentation. Verifying documentation must include copies of actual timesheets for any labor costs.
2. Manifests showing proper transport and disposal or recycling of materials;
3. The quantity of materials collected such as number of tires, gallons of paint, etc;
4. Photographs of the project;
5. A statement of quantifiable environmental benefits; and
6. 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 expenditure of the SEP Offset 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 Offset Amount.

In the event that the Respondent does not spend the required SEP Offset Amount on the projects, the Respondent shall remit the remaining balance to TCEQ. The Respondent shall include the docket number of this Agreed Order and a note with the payment, explaining that the payment is for a SEP reimbursement. The check shall be made payable to "Texas Commission on Environmental Quality" and shall be mailed 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.

