

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2008-1810-MWD-E TCEQ ID: RN101613305 CASE NO.: 36825

RESPONDENT NAME: City of Jacksonville

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 Jacksonville Canada Street WWTP, located on Canada Street, southeast of the crossing of Ragsdale Creek by Canada Street, southeast of the City of Jacksonville with an associated manhole located at the intersection of Beaumont Drive and Brookside Drive, Cherokee County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: A complaint was received on August 5, 2008, alleging that the water was dark and cloudy. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: A complaint was received, but the complainant has not expressed a desire to protest this action or to speak at Agenda.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 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: Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5363; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. David Brook, Utilities Director, City of Jacksonville, P.O. Box 1390, Jacksonville, Texas 75766 Mr. Mo Raissi, City Manager, City of Jacksonville, P.O. Box 1390, Jacksonville, Texas 75766 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 checked="" type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: August 5, 2008</p> <p>Date of Investigation Relating to this Case: August 5, 2008</p> <p>Date of NOV/NOE Relating to this Case: November 3, 2008 (NOE)</p> <p>Background Facts: This was a complaint investigation.</p> <p>WATER</p> <p>Failure to prevent the unauthorized discharge of wastewater into water in the state. Specifically, on August 4, 2008 a stoppage in the sewer main lead to a discharge from an old sanitary sewer bypass in a manhole at the intersection of Beaumont Drive and Brookside Drive which discharged approximately 1,000 gallons of domestic wastewater to Ragsdale Creek and resulted in approximately 15 fish being killed [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010693001, Permit Conditions 2.g].</p>	<p>Total Assessed: \$5,400</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$5,400</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 type="checkbox"/> Yes <input checked="" 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 the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. On August 4, 2008, the Respondent unstopped the sewer main and flushed the creek with fresh water;</p> <p>b. On August 4, 2008, the Respondent plugged the bypass pipe to prevent future discharges; and</p> <p>c. On August 13, 2008, the Respondent completely removed the bypass pipe.</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): WQ0010693001

Attachment A

Docket Number: 2008-1810-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Jacksonville
Penalty Amount:	Five Thousand Four Hundred Dollars (\$5,400)
SEP Offset Amount:	Five Thousand Four Hundred Dollars (\$5,400)
Type of SEP:	Custom (with pre-approved concept)
Location of SEP:	Cherokee 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 one-day cleanup event to collect, properly dispose, or recycle household bulky solid waste items not normally disposed of by regular solid waste pickup. The Respondent shall ensure that it does not collect hazardous waste materials during the event. The Respondent shall offer approximately six convenient drop-off locations 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 during daylight hours
- offers to the public convenient drop-off locations
- does not include collection of hazardous waste
- uses personnel, and/or contractors with proper authorization(s), who are 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, costs of contractors with proper authorization (if applicable) 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 release 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 conserve landfill capacity.

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 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 October 30, 2008

DATES	Assigned	3-Nov-2008			
	PCW	1-Dec-2008	Screening	20-Nov-2008	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Jacksonville
Reg. Ent. Ref. No.	RN101613305
Facility/Site Region	5-Tyler
	Major/Minor Source
	Minor

CASE INFORMATION			
Enf./Case ID No.	36825	No. of Violations	1
Docket No.	2008-1810-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Samuel Short
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	<i>Subtotal 1</i>	\$5,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>		
Compliance History	33.0% Enhancement	<i>Subtotals 2, 3, & 7</i>
Notes	An enhancement is recommended for having five NOV's for the same or similar violations and four NOV's for non-similar violations within the last five years.	
Culpability	No	<i>Subtotal 4</i>
Notes	0.0% Enhancement	
	The Respondent does not meet the culpability criteria.	
Good Faith Effort to Comply Total Adjustments		<i>Subtotal 5</i>
	\$1,250	
Economic Benefit		<i>Subtotal 6</i>
	0.0% Enhancement*	\$0
Total EB Amounts	\$0	
Approx. Cost of Compliance	\$2,000	<small>*Capped at the Total EB \$ Amount</small>
SUM OF SUBTOTALS 1-7		<i>Final Subtotal</i>
	\$5,400	
OTHER FACTORS AS JUSTICE MAY REQUIRE		<i>Adjustment</i>
	0.0%	\$0
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>		
Notes		
	<i>Final Penalty Amount</i>	
	\$5,400	
STATUTORY LIMIT ADJUSTMENT		<i>Final Assessed Penalty</i>
	\$5,400	
DEFERRAL		<i>Adjustment</i>
	0.0% Reduction	\$0
<small>Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)</small>		
Notes	No deferral is recommended for Findings Orders.	
PAYABLE PENALTY		\$5,400

Screening Date 20-Nov-2008

Docket No. 2008-1810-MWD-E

PCW

Respondent City of Jacksonville

Policy Revision 2 (September 2002)

Case ID No. 36825

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101613305

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	5	25%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

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) 33%

>> **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 for having five NOVs for the same or similar violations and four NOVs for non-similar violations within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 33%

Screening Date 20-Nov-2008 **Docket No.** 2008-1810-MWD-E **PCW**
Respondent City of Jacksonville *Policy Revision 2 (September 2002)*
Case ID No. 36825 *PCW Revision October 30, 2008*
Reg. Ent. Reference No. RN101613305
Media [Statute] Water Quality
Enf. Coordinator Samuel Short

Violation Number 1
Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010693001, Permit Conditions 2.g.
Violation Description Failed to prevent the unauthorized discharge of wastewater into water in the state, as documented during an investigation conducted on August 5, 2008. Specifically, on August 4, 2008 a stoppage in the sewer main lead to a discharge from an old sanitary sewer bypass in a manhole at the intersection of Beaumont Drive and Brookside Drive which discharged approximately 1,000 gallons of domestic wastewater to Ragsdale creek and resulted in approximately 15 fish being killed.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual	x		
Potential				

>> Programmatic Matrix

Falsification				Percent
Major	Moderate	Minor		
				0%

Matrix Notes Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1 Number of violation days 1

mark only one with an x

daily	x
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

One daily event is recommended from the date the discharge occurred, the afternoon of August 4, 2008, to the date when the Respondent plugged the bypass line, the morning of August 5, 2008.

Good Faith Efforts to Comply 25.0% Reduction \$1,250

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

Notes The Respondent returned to compliance on August 5, 2008.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation **Statutory Limit Test**

Estimated EB Amount \$0 Violation Final Penalty Total \$5,400

This violation Final Assessed Penalty (adjusted for limits) \$5,400

Economic Benefit Worksheet

Respondent City of Jacksonville
Case ID No. 36825
Reg. Ent. Reference No. RN101613305
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				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)	\$2,000	4-Aug-2008	5-Aug-2008	0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost to flush the creek with fresh water, unstop the sewer main, and plug the bypass line. Date required is when the discharge occurred and the final date is the date that the bypass line was plugged.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$0

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600613608	City of Jacksonville	Classification: AVERAGE	Rating: 1.37
Regulated Entity:	RN101613305	CITY OF JACKSONVILLE CANADA STREET WWTP	Classification: AVERAGE	Site Rating: 0.48
ID Number(s):	WASTEWATER	PERMIT		WQ0010693001
	WASTEWATER	PERMIT		TPDES0024392
	WASTEWATER	PERMIT		TX0024392
	PRETREATMENT	EPA ID		TX0024392000
	PRETREATMENT	PERMIT		WQ0010693001
	WASTEWATER LICENSING	LICENSE		WQ0010693001
Location:	ON CANADA STREET, SOUTHEAST OF THE CROSSING OF RAGSDALE CREEK BY CANADA STREET, SOUTHEAST OF THE CITY OF JACKSONVILLE, CHEROKEE COUNTY, TX (AN ASSOCIATED MANHOLE LOCATED AT THE INTERSECTION OF BEAUMONT DRIVE AND BROOKSIDE DRIVE)			Rating Date: 9/1/2008 Repeat Violator: NO
TCEQ Region:	REGION 05 - TYLER			
Date Compliance History Prepared:	November 20, 2008			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	November 20, 2003 to November 20, 2008			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Samuel Short		Phone:	(512) 239-5363

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership 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	11/20/2003	(300364)
2	12/15/2003	(300365)
3	01/20/2004	(300366)
4	02/27/2004	(300347)
5	03/22/2004	(300350)
6	04/20/2004	(300351)
7	04/29/2004	(267359)
8	05/21/2004	(300353)
9	06/18/2004	(300355)
10	07/22/2004	(300357)
11	09/20/2004	(354090)
12	09/27/2004	(354089)
13	10/20/2004	(354091)
14	11/22/2004	(354092)
15	12/06/2004	(343398)
16	12/22/2004	(382968)

17 01/21/2005 (382969)
 18 02/22/2005 (382966)
 19 03/21/2005 (382967)
 20 05/23/2005 (577977)
 21 06/20/2005 (577980)
 22 07/21/2005 (577974)
 23 08/04/2005 (577983)
 24 08/18/2005 (577986)
 25 09/21/2005 (577988)
 26 10/11/2005 (432174)
 27 10/19/2005 (577990)
 28 11/17/2005 (577992)
 29 12/15/2005 (577994)
 30 01/03/2006 (436923)
 31 01/18/2006 (577996)
 32 02/21/2006 (577970)
 33 03/21/2006 (577972)
 34 04/19/2006 (577975)
 35 06/01/2006 (577978)
 36 06/20/2006 (577981)
 37 07/19/2006 (577984)
 38 07/30/2006 (483183)
 39 08/30/2006 (577987)
 40 09/01/2006 (511191)
 41 09/20/2006 (577989)
 42 10/20/2006 (577991)
 43 11/13/2006 (519117)
 44 11/17/2006 (577993)
 45 12/22/2006 (577995)
 46 01/19/2007 (577997)
 47 02/21/2007 (577971)
 48 03/23/2007 (577973)
 49 04/20/2007 (577976)
 50 05/18/2007 (577979)
 51 05/23/2007 (561002)
 52 06/19/2007 (577982)
 53 07/23/2007 (577985)
 54 08/24/2007 (573598)
 55 08/30/2007 (607849)
 56 09/20/2007 (607850)
 57 10/22/2007 (607851)
 58 10/31/2008 (703254)

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

Date: 04/30/2004 (267359)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 317 317.6(b)(1)(D)
 30 TAC Chapter 317 317.6(b)(1)(E)

Description: Failure to maintain an operational self contained breathing apparatus and maintain an operational chlorination room ventilation system.

Date: 06/30/2005 (577983)

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: 10/14/2005 (432174)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)

Description: Failure to obtain permit coverage under the Texas Pollutant Discharge Elimination System (TPDES) Multi-Source Industrial General Permit for Storm

Elimination System (TPDES) Multi-Sector Industrial General Permit for Storm Water.

Date: 12/31/2005 (577996)
 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: 07/28/2006 (483183)
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 315, SubChapter A 315.1
 40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)(ii)
 40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)(vi)
 Description: Failure to verify the source of all flows into the pretreatment system at AFT to ascertain whether they should be using the combined wastestream formula. Failure to sample the cyanide-bearing wastestream immediately after cyanide destruct prior to combining with other wastestreams.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 315, SubChapter A 315.1
 40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(5)
 Description: Failure to follow the CA's enforcement response plan.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 315, SubChapter A 315.1
 40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)(vii)
 Description: Failure to determine significant non-compliance on a quarterly basis per EPA directive.
 Date: 01/31/2007 (577971)
 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: 02/28/2007 (577973)
 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: 03/31/2007 (577976)
 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: 05/30/2007 (561002)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)
 Description: Failure to obtain authorization to discharge storm water associated with an industrial activity by means of the Texas Pollutant Discharge Elimination System (TPDES) Multi-Sector Industrial General Permit for Storm Water TXR050000

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 JACKSONVILLE
RN101613305

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2008-1810-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 Jacksonville ("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 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 facility located on Canada Street, southeast of the crossing of Ragsdale Creek by Canada Street, southeast of the City of Jacksonville with an associated manhole located at the intersection of Beaumont Drive and Brookside Drive in Cherokee 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 August 5, 2008, TCEQ staff documented that on August 4, 2008 a stoppage in the sewer main lead to a discharge from an old sanitary sewer bypass in a manhole at the intersection of Beaumont Drive and Brookside Drive which discharged approximately 1,000 gallons of domestic wastewater to Ragsdale creek and resulted in approximately 15 fish being killed.
4. The City received notice of the violations on November 8, 2008.
5. The Executive Director recognizes that the City has implemented the following corrective measures at the Facility:
 - a. On August 4, 2008, the City unstopped the sewer main and flushed the creek with fresh water;
 - b. On August 4, 2008, the City plugged the bypass pipe to prevent future discharges; and
 - c. On August 13, 2008, the City completely removed the bypass pipe.

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 the unauthorized discharge of wastewater into water in the state, as documented during an investigation conducted on August 5, 2008, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010693001, Permit Conditions 2.g.
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 Five Thousand Four Hundred Dollars (\$5,400) 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. Five Thousand Four Hundred Dollars (\$5,400) shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP").

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 Five Thousand Four Hundred Dollars (\$5,400) 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 Jacksonville, Docket No. 2008-1810-MWD-E" to:

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

2. The City shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 4 above, Five Thousand Four Hundred Dollars (\$5,400) 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

6/23/2009
Date

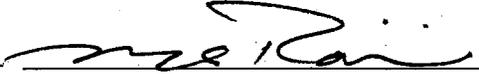
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Jacksonville. I am authorized to agree to the attached Agreed Order on behalf of the City of Jacksonville, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting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

I understand that by entering into this Agreed Order, City of Jacksonville 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.



Signature

May 13, 2009
Date

Mo Raissi

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

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: 2008-1810-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Jacksonville
Penalty Amount: Five Thousand Four Hundred Dollars (\$5,400)
SEP Offset Amount: Five Thousand Four Hundred Dollars (\$5,400)
Type of SEP: Custom (with pre-approved concept)
Location of SEP: Cherokee 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 one-day cleanup event to collect, properly dispose, or recycle household bulky solid waste items not normally disposed of by regular solid waste pickup. The Respondent shall ensure that it does not collect hazardous waste materials during the event. The Respondent shall offer approximately six convenient drop-off locations 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 during daylight hours
- offers to the public convenient drop-off locations
- does not include collection of hazardous waste
- uses personnel, and/or contractors with proper authorization(s), who are 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, costs of contractors with proper authorization (if applicable) 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 release 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 conserve landfill capacity.

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 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.

