

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0441-MWD-E **TCEQ ID:** RN101614352 **CASE NO.:** 37374

RESPONDENT NAME: City of Grapevine

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 Grapevine – Peach Street Plant, located immediately northwest of the intersection of North Schribner and Shady Brook Road, and a manhole located in the 1800 block of West Northwest Highway, Grapevine, Tarrant County</p> <p>TYPE OF OPERATION: Wastewater treatment facility and associated wastewater collection system with a manhole</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 September 14, 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. Pamela Campbell, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4493; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: The Honorable William Tate, Mayor, City of Grapevine, 501 Shady Brook Drive, Grapevine, Texas 76051 Mr. Matt Singleton, Director of Public Works, City of Grapevine, 501 Shady Brook Drive, Grapevine, Texas 76051 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: January 23, 2009</p> <p>Date of NOV/NOE Relating to this Case: March 6, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>Failure to prevent the unauthorized discharge of wastewater. Specifically, on January 19, 2009, an unauthorized discharge of 44,880 gallons of untreated wastewater occurred from a manhole located in the 1800 block of West Northwest Highway. On January 22, 2009, the Respondent notified the TCEQ Dallas/Fort Worth Regional Office that approximately 80 fish had been killed as a result of this unauthorized discharge [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010486002 Permit Conditions No. 2.g].</p>	<p>Total Assessed: \$3,750</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$3,750</p> <p>Total Paid to General Revenue: \$0</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input 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 as implemented the following corrective measures at the Site:</p> <p>a. On January 19, 2009, began pumping wastewater back into the sanitary sewer system using numerous pumps at various locations along the affected area;</p> <p>b. On January 19, 2009, initiated air sparging along the bank of the pond in multiple locations to improve water quality and increase dissolved oxygen levels;</p> <p>c. On or about January 20, 2009, cleaned up the affected area by flushing de-chlorinated water through the creek. The de-chlorinated water along with the wastewater was pumped back into the collection system;</p> <p>d. On or about January 22, 2009, removed and properly disposed of dead fish; and</p> <p>e. On March 13, 2009, restocked the pond to mitigate the loss of fish.</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): Texas Pollutant Discharge Elimination System Permit No. WQ0010486002

Attachment A
Docket Number: 2009-0441-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Grapevine
Penalty Amount: Three Thousand Seven Hundred Fifty Dollars (\$3,750)
SEP Offset Amount: Three Thousand Seven Hundred Fifty Dollars (\$3,750)
Type of SEP: Custom (with pre-approved concept)
Location of SEP: Tarrant 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 and electronics. Items to be collected will include, but are not limited to, used motor oil, batteries, pesticides, antifreeze, televisions and computers. 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 use a qualified contractor to properly dispose of used oil, household chemicals, and electronics.

The Respondent shall ensure that the collection event:

- occurs during daylight hours
- offers to the public a convenient drop-off location
- does not include collection or storage of non-household hazardous waste
- uses personnel and 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. The SEP Offset Amount will be used for equipment and hourly labor costs of employees where appropriate, public announcement of the event, costs of contractor(s) with proper authorization(s), and disposal and recycling costs.

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

The recycling portion of this event will include recycling of E-waste materials. E-waste materials include computers and related information technologies such as workstations, scanners, printers, hand-held diagnostic and screening tools, cell phones, servers, and televisions, among many others. Cathode ray tubes ("CRT") are the picture tubes in computers, monitors and TVs. With the rapid evolution of technology, computers and TVs containing CRTs become obsolete in a short period of time and are simply discarded, often in landfills. A typical 17-inch CRT contains approximately two pounds of lead and larger CRTs may contain up to ten pounds of lead. E-waste can contain lead, mercury, cadmium, hexavalent chromium and brominated flame retardants.

This SEP will limit potentially toxic or hazardous e-waste from the waste stream destined for disposal or incineration and to divert the e-waste to recycling. This will save valuable landfill capacity and allow the recycler to re-utilize e-waste components, including CRTs.

This SEP will also 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.

This SEP will also provide for recycling of other 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. If the Respondent provides its own labor, verifying documentation must include copies of actual timesheets for labor costs.
2. Manifests showing proper transport and disposal or recycling of materials;
3. The quantity of materials collected such as number of televisions, 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 the SEP Offset Amount. 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 the SEP Offset Amount. 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 the "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-Mar-2009			
	PCW	20-Apr-2009	Screening	25-Mar-2009	EPA Due

RESPONDENT/FACILITY INFORMATION					
Respondent	City of Grapevine				
Reg. Ent. Ref. No.	RN101614352				
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor		

CASE INFORMATION					
Enf./Case ID No.	37374	No. of Violations	1		
Docket No.	2009-0441-MWD-E	Order Type	Findings		
Media Program(s)	Water Quality	Government/Non-Profit	Yes		
Multi-Media		Enf. Coordinator	Pamela Campbell		
		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	\$5,000
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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	0.0% Enhancement	Subtotals 2, 3, & 7	\$0
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Notes: No change due to average performer classification.

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	\$1,250
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$5
 Approx. Cost of Compliance: \$13,954
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$3,750
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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	\$3,750
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$3,750
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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	\$3,750
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Screening Date 25-Mar-2009	Docket No. 2009-0441-MWD-E	PCW
Respondent City of Grapevine	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 37374	<i>PCW Revision October 30, 2008</i>	
Reg. Ent. Reference No. RN101614352		
Media [Statute] Water Quality		
Enf. Coordinator Pamela Campbell		

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	0	.0%
	Other written NOVs	0	0%
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 judgments 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%
<i>Please Enter Yes or No</i>			
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) 0%

>> Repeat Violator (Subtotal 3)

No	Adjustment Percentage (Subtotal 3) 0%
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>> Compliance History Person Classification (Subtotal 7)

Average Performer	Adjustment Percentage (Subtotal 7) 0%
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>> Compliance History Summary

Compliance History Notes	No change due to average performer classification.
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Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 25-Mar-2009	Docket No. 2009-0441-MWD-E	PCW		
Respondent City of Grapevine	<small>Policy Revision 2 (September 2002)</small>			
Case ID No. 37374	<small>PCW Revision October 30, 2008</small>			
Reg. Ent. Reference No. RN101614352				
Media [Statute] Water Quality				
Enf. Coordinator Pamela Campbell				
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 Permit No. WQ0010486002 Permit Conditions No. 2.g			
Violation Description	Failed to prevent the unauthorized discharge of wastewater. Specifically, on January 19, 2009, an unauthorized discharge of 44,880 gallons of untreated wastewater occurred from a manhole located in the 1800 block of West Northwest Highway into a retention pond. On January 22, 2009, the Respondent notified the Dallas/Fort Worth Regional Office that approximately 80 fish had been killed as a result of this unauthorized discharge.			
	Base Penalty	\$10,000		
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	x		
	Potential			
		Percent	50%	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
		Percent	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 this violation.			
	Adjustment	\$5,000		
				\$5,000
Violation Events				
	Number of Violation Events	1	1	Number of violation days
<small>mark only one with an x</small>	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 (January 19, 2009) to the date the discharge ceased and immediate actions were taken to resolve the violation (January 20, 2009).			
Good Faith Efforts to Comply		25.0% Reduction		\$1,250
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary				
Ordinary	x			
N/A		<small>(mark with x)</small>		
Notes	The Respondent returned to compliance on January 22, 2009.			
			Violation Subtotal	\$3,750
Economic Benefit (EB) for this violation		Statutory Limit Test		
	Estimated EB Amount	\$5	Violation Final Penalty Total	\$3,750
			This violation Final Assessed Penalty (adjusted for limits)	\$3,750

Economic Benefit Worksheet

Respondent: City of Grapevine
Case ID No.: 37374
Reg. Ent. Reference No.: RN101614352
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
No commas or \$							

Delayed Costs

Equipment	\$5,475	19-Jan-2009	20-Jan-2009	0.00	\$0	\$1	\$1
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$74	19-Jan-2009	13-Mar-2009	0.15	\$0	\$1	\$1
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00		n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$8,405	19-Jan-2009	22-Jan-2009	0.01	\$3	n/a	\$3
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

These are the cost incurred by the Respondent to clear the stoppage in the sewer line, flush the line, clean and dispose of the dead fish, monitor the water quality of the affected creek, and restock the pond with fish. Date required is the date the violation began and the final dates are the dates that the Respondent returned to compliance and took additional actions to restock the pond.

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

\$13,954

TOTAL

\$5

Compliance History Report

Customer/Respondent/Owner-Operator:
Regulated Entity:

CN600259683 City of Grapevine
RN101614352 CITY OF GRAPEVINE
- PEACH STREET PLANT

Classification: AVERAGE
Classification: HIGH

Rating: 1.80
Site Rating: 0.00

ID Number(s):

WASTEWATER PERMIT WQ0010486002
WASTEWATER PERMIT TPDES0032018
WASTEWATER PERMIT TX0032018
WASTEWATER LICENSING LICENSE WQ0010486002

Location:

IMMED. NW OF THE INT OF N SCHRIBNER
AND SHADY BROOK RD, GRAPEVINE, TARRANT CO, TX
MANHOLE LOCATED IN THE 1800 BLOCK OF WEST
NW HWY

TCEQ Region:

REGION 04 - DFW METROPLEX

Date Compliance History Prepared:

March 24, 2009

Agency Decision Requiring Compliance History:

Enforcement

Compliance Period:

March 24, 2004 to March 24, 2009

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

Name: Pamela Campbell

Phone: 239 - 4493

Site Compliance History Components

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

Components (Multimedia) for the Site :

6. Rating Date: 9/1/2008 Repeat Violator: NO

- 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 04/20/2004 (303714)
- 2 05/18/2004 (303716)
- 3 05/19/2004 (303719)
- 4 06/17/2004 (355469)
- 5 08/18/2004 (355470)
- 6 09/07/2004 (355471)
- 7 09/07/2004 (355474)
- 8 10/19/2004 (355472)
- 9 11/23/2004 (355473)
- 10 12/22/2004 (383744)
- 11 02/17/2005 (383742)
- 12 03/23/2005 (383743)
- 13 04/18/2005 (421661)
- 14 04/25/2005 (421664)
- 15 05/13/2005 (421662)
- 16 06/20/2005 (421663)
- 17 08/15/2005 (442590)
- 18 09/19/2005 (442591)
- 19 10/18/2005 (471737)
- 20 11/15/2005 (471738)
- 21 12/16/2005 (471739)
- 22 01/18/2006 (471740)
- 23 02/21/2006 (471734)
- 24 03/21/2006 (471735)
- 25 03/23/2006 (439251)
- 26 04/11/2006 (471736)
- 27 05/15/2006 (500278)
- 28 05/15/2006 (500280)
- 29 05/15/2006 (500281)
- 30 06/15/2006 (500279)
- 31 08/17/2006 (522372)
- 32 09/12/2006 (522373)
- 33 10/13/2006 (522374)
- 34 11/16/2006 (547071)
- 35 12/19/2006 (547072)
- 36 01/11/2007 (536321)
- 37 02/12/2007 (547069)
- 38 02/12/2007 (547070)
- 39 02/12/2007 (547073)
- 40 03/14/2007 (579546)
- 41 04/16/2007 (579547)
- 42 05/17/2007 (579548)
- 43 06/18/2007 (579549)

44 07/10/2007 (566973)
45 08/09/2007 (579550)
46 09/13/2007 (602861)
47 10/18/2007 (602862)
48 11/14/2007 (621231)
49 12/12/2007 (621232)
50 02/04/2008 (673320)
51 02/15/2008 (673317)
52 03/18/2008 (673318)
53 04/10/2008 (673319)
54 05/12/2008 (654737)
55 05/12/2008 (669948)
56 05/16/2008 (691473)
57 06/06/2008 (691474)
58 07/30/2008 (712413)
59 08/14/2008 (712410)
60 09/09/2008 (712411)
61 10/06/2008 (712412)
62 11/19/2008 (728668)
63 12/12/2008 (728669)
64 02/27/2009 (736295)

- E. Written notices of violations (NOV). (CCEDS Inv. Track, No.)
N/A
 - 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 GRAPEVINE
RN101614352

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0441-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 Grapevine ("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 and associated wastewater collection system with a manhole located in the 1800 block of West Northwest Highway in Grapevine, Tarrant County, Texas (the "Site").

2. The City has discharged sewage into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation on January 23, 2009, TCEQ staff documented that the City reported an unauthorized discharge of 44,880 gallons of untreated wastewater that occurred on January 19, 2009 from a manhole located in the 1800 block of West Northwest Highway. On January 22, 2009, the City notified the TCEQ Dallas/Fort Worth Regional Office that approximately 80 fish had been killed as a result of this unauthorized discharge.
4. The City received notice of the violations on or about March 11, 2009.
5. The Executive Director recognizes that the City has implemented the following corrective measures at the Site :
 - a. On January 19, 2009, began pumping wastewater back into the sanitary sewer system using numerous pumps at various locations along the affected area;
 - b. On January 19, 2009, initiated air sparging along the bank of the pond in multiple locations to improve water quality and increase dissolved oxygen levels;
 - c. On or about January 20, 2009, cleaned up the affected area by flushing de-chlorinated water through the creek. The de-chlorinated water along with the wastewater was pumped back into the collection system;
 - d. On or about January 22, 2009, removed and properly disposed of dead fish; and
 - e. On March 13, 2009, restocked the pond to mitigate the loss of fish.

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, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010486002 Permit Conditions No. 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 Three Thousand Seven Hundred Fifty Dollars (\$3,750) 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. Three Thousand Seven Hundred Fifty Dollars (\$3,750) 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 Three Thousand Seven Hundred Fifty Dollars (\$3,750) 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 Grapevine, Docket No. 2009-0441-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, Three Thousand Seven Hundred Fifty Dollars (\$3,750) 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 Site 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

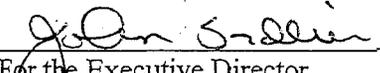
writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

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

8/21/2009
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Grapevine. I am authorized to agree to the attached Agreed Order on behalf of the City of Grapevine, 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 Grapevine 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

July 6, 2009
Date

Matt Singleton

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

Director of Public Works

Title

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

Attachment A
Docket Number: 2009-0441-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Grapevine
Penalty Amount: Three Thousand Seven Hundred Fifty Dollars (\$3,750)
SEP Offset Amount: Three Thousand Seven Hundred Fifty Dollars (\$3,750)
Type of SEP: Custom (with pre-approved concept)
Location of SEP: Tarrant 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 and electronics. Items to be collected will include, but are not limited to, used motor oil, batteries, pesticides, antifreeze, televisions and computers. 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 use a qualified contractor to properly dispose of used oil, household chemicals, and electronics.

The Respondent shall ensure that the collection event:

- occurs during daylight hours
- offers to the public a convenient drop-off location
- does not include collection or storage of non-household hazardous waste
- uses personnel and 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. The SEP Offset Amount will be used for equipment and hourly labor costs of employees where appropriate, public announcement of the event, costs of contractor(s) with proper authorization(s), and disposal and recycling costs.

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

The recycling portion of this event will include recycling of E-waste materials. E-waste materials include computers and related information technologies such as workstations, scanners, printers, hand-held diagnostic and screening tools, cell phones, servers, and televisions, among many others. Cathode ray tubes ("CRT") are the picture tubes in computers, monitors and TVs. With the rapid evolution of technology, computers and TVs containing CRTs become obsolete in a short period of time and are simply discarded, often in landfills. A typical 17-inch CRT contains approximately two pounds of lead and larger CRTs may contain up to ten pounds of lead. E-waste can contain lead, mercury, cadmium, hexavalent chromium and brominated flame retardants.

This SEP will limit potentially toxic or hazardous e-waste from the waste stream destined for disposal or incineration and to divert the e-waste to recycling. This will save valuable landfill capacity and allow the recycler to re-utilize e-waste components, including CRTs.

This SEP will also 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.

This SEP will also provide for recycling of other 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. If the Respondent provides its own labor, verifying documentation must include copies of actual timesheets for labor costs.
2. Manifests showing proper transport and disposal or recycling of materials;
3. The quantity of materials collected such as number of televisions, 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 the SEP Offset Amount. 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 the SEP Offset Amount. 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 the "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.