

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0462-MWD-E **TCEQ ID:** RN102412558 **CASE NO.:** 34705

RESPONDENT NAME: Texas Department of Criminal Justice

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
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: TDCJ Darrington Unit, located west of Alvin at the north end of Jackson Lake; approximately two miles west and 3.2 miles north of the intersection of State Highway 288 and Farm-to-Market Road 1462, Brazoria 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 August 3, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Ms. Lauren Smitherman, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-5223; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Jerry McGinty, Chief Financial Officer, Texas Department of Criminal Justice, P.O. Box 4011, Huntsville, Texas 77342-4011 Mr. Frank Inmon, Director, Facilities Division, Texas Department of Criminal Justice, P.O. Box 4011, Huntsville, Texas 77342-4011 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 type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Record Review Relating to this Case: December 10, 2008</p> <p>Date of NOE Relating to this Case: March 19, 2009 (NOE)</p> <p>Background Facts: This was a routine record review.</p> <p>WATER</p> <p>1) Failure to comply with permitted effluent limitations for dissolved oxygen and ammonia nitrogen [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010743001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6].</p> <p>2) Failure to timely submit the annual sludge report for the monitoring period ending July 31, 2008 by September 1, 2008 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010743001, Sludge Provisions].</p>	<p>Total Assessed: \$3,360</p> <p>Total Deferred: \$672 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$2,688</p> <p>Total Paid 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>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a) On July 22, 2008, began processing 334,150 gallons of influent with a belt press to reduce solids in the aerator;</p> <p>b) On January 16, 2009, repaired the aerator valves and aerator diffusers to maintain proper aeration; and</p> <p>c) On March 30, 2009, submitted the annual sludge report for the monitoring period ending July 31, 2008.</p> <p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A).</p> <p>2) The Order will also require the Respondent to, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010743001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): WQ0010743001

Attachment A
Docket Number: 2009-0462-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Texas Department of Criminal Justice
Payable Penalty Amount: Two Thousand Six Hundred Eighty-Eight Dollars (\$2,688)
SEP Amount: Two Thousand Six Hundred Eighty-Eight Dollars (\$2,688)
Type of SEP: Pre-approved
Third-Party Recipient: Brazoria County - Wastewater Treatment Assistance For Low-Income Homeowners
Location of SEP: Brazoria County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent will contribute to Brazoria County to provide assistance to low income homeowners to repair or replace failing or inadequately designed On-Site Sewage Facilities ("OSSFs") within the county. Many of the OSSFs currently in operation in Brazoria County are substandard and result in the release of sewage in residential areas, public rights-of-way, and waterways.

Brazoria County shall not charge homeowners for any portion of the cost of the project paid for by SEP funds.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by preventing the continued release of raw sewage into the environment, which will protect ground, surface, and drinking water sources, and wildlife from contamination from sewage. Important aquatic areas in the Brazoria County area that are likely impacted by the release of sewage include the Brazos River Basin, Christmas Bay, Chocolate Bayou, and Bastrop Bayou.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

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

Brazoria County Environmental Health Services
111 East Locust
Bldg A-29 Suite 270
Angleton, Texas 77515

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to Texas Commission on Environmental Quality and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. 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.

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order 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	23-Mar-2009	Screening	2-Apr-2009	EPA Due	
	PCW	2-Apr-2009				

RESPONDENT/FACILITY INFORMATION			
Respondent	Texas Department of Criminal Justice		
Reg. Ent. Ref. No.	RN102412558		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	34705	No. of Violations	2
Docket No.	2009-0462-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Lauren Smitherman
		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)	<i>Subtotal 1</i>	\$2,100
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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	60.0% Enhancement	<i>Subtotals 2, 3, & 7</i>	\$1,260
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Notes: Enhancement due to 11 monthly self-reported effluent violations and one NOV with violations same or similar to those cited in this action.

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

Good Faith Effort to Comply Total Adjustments	<i>Subtotal 5</i>	\$0
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Economic Benefit	0.0% Enhancement*	<i>Subtotal 6</i>	\$0
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Total EB Amounts: \$3,429
 Approx. Cost of Compliance: \$30,958
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	\$3,360
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	<i>Adjustment</i>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: [Empty box]

<i>Final Penalty Amount</i>	\$3,360
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STATUTORY LIMIT ADJUSTMENT	<i>Final Assessed Penalty</i>	\$3,360
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DEFERRAL	20.0% Reduction	<i>Adjustment</i>	-\$672
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$2,688
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Screening Date 2-Apr-2009

Docket No. 2009-0462-MWD-E

PCW

Respondent Texas Department of Criminal Justice

Policy Revision 2 (September 2002)

Case ID No. 34705

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102412558

Media [Statute] Water Quality

Enf. Coordinator Lauren Smitherman

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)	12	60%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<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) 60%

>> 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

Enhancement due to 11 monthly self-reported effluent violations and one NOV with violations same or similar to those cited in this action.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 60%

Screening Date	2-Apr-2009	Docket No.	2009-0462-MWD-E	PCW
Respondent	Texas Department of Criminal Justice			<small>Policy Revision 2 (September 2002)</small>
Case ID No.	34705			<small>PCW Revision October 30, 2008</small>
Reg. Ent. Reference No.	RN102412558			
Media [Statute]	Water Quality			
Enf. Coordinator	Lauren Smitherman			
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010743001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6			
Violation Description	Failed to comply with permitted effluent limitations, as documented during a record review on December 10, 2008, and shown in the attached Effluent Violation Table.			
		Base Penalty	\$10,000	

>> Environmental, Property and Human Health Matrix

OR	Harm			
	Release	Major	Moderate	Minor
	Actual			x
Potential				Percent 10%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
					Percent 0%

Matrix Notes
 A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Dissolved oxygen was also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events Number of violation days

<small>mark only one with an x</small>	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,000

Two quarterly events are recommended.

Good Faith Efforts to Comply Reduction \$0

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

Notes
 The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,000

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

Estimated EB Amount Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: Texas Department of Criminal Justice
Case ID No.: 34705
Reg. Ent. Reference No.: RN102412558
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
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$30,858	31-May-2008	31-Dec-2009	1.59	\$163	\$3,263	\$3,427
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: Delayed cost to process 334,150 gallons of influent with a belt press to reduce solids in the aerator (\$23,858) and to repair aerator valves and aerator diffusers to maintain proper aeration (\$7,000). Date required is the first noncompliant month and the final date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance	\$30,858	TOTAL	\$3,427
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Screening Date 2-Apr-2009		Docket No. 2009-0462-MWD-E		PCW	
Respondent Texas Department of Criminal Justice				<small>Policy Revision 2 (September 2002)</small>	
Case ID No. 34705				<small>PCW Revision October 30, 2008</small>	
Reg. Ent. Reference No. RN102412558					
Media [Statute] Water Quality					
Enf. Coordinator Lauren Smitherman					
Violation Number	<input type="text" value="2"/>				
Rule Cite(s)	30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0010743001, Sludge Provisions				
Violation Description	Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2008 by September 1, 2008, as documented during a record review conducted on December 10, 2008.				
			Base Penalty	<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	Percent <input type="text" value="0%"/>
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	
	<input type="text"/>	<input type="text"/>	<input type="text"/>	x	Percent <input type="text" value="1%"/>
Matrix Notes	More than 70% of the permit requirement was met.				
			Adjustment	<input type="text" value="\$9,900"/>	
				<input type="text" value="\$100"/>	
Violation Events					
Number of Violation Events		<input type="text" value="1"/>	Number of violation days		
		<input type="text" value="210"/>			
<small>mark only one with an x</small>	daily	<input type="text"/>			
	weekly	<input type="text"/>			
	monthly	<input type="text"/>			
	quarterly	<input type="text"/>			
	semiannual	<input type="text"/>			
	annual	<input type="text"/>			
	single event	x			
			Violation Base Penalty	<input type="text" value="\$100"/>	
One single event is recommended.					
Good Faith Efforts to Comply		<input type="text" value="0.0%"/>	Reduction	<input type="text" value="\$0"/>	
		<small>Before NOV NOV to EDRP/Settlement Offer</small>			
Extraordinary	<input type="text"/>	<input type="text"/>			
Ordinary	<input type="text"/>	<input type="text"/>			
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="\$100"/>	
Economic Benefit (EB) for this violation		Statutory Limit Test			
Estimated EB Amount		<input type="text" value="\$3"/>	Violation Final Penalty Total	<input type="text" value="\$160"/>	
			This violation Final Assessed Penalty (adjusted for limits)	<input type="text" value="\$160"/>	

Economic Benefit Worksheet

Respondent Texas Department of Criminal Justice
Case ID No. 34705
Reg. Ent. Reference No. RN102412558
Media Water Quality
Violation No. 2

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				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)	\$100	1-Sep-2008	30-Mar-2009	0.58	\$3	n/a	\$3

Notes for DELAYED costs

Estimated costs to prepare and submit the annual sludge report. Date Required is the date the report was due. Final Date is the date the report was submitted.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$3

EFFLUENT VIOLATION TABLE

	DO Monthly Min.	NH3-N Daily Avg. Loading	NH3-N Daily Avg. Conc.	NH3-N Daily Max. Conc.
Months	Limit = 6 mg/L	Limit = 13 lbs/day	Limit = 2.0 mg/L	Limit = 10 mg/L
5/31/2008	5.00	c	c	c
6/30/2008	c	20.39	3.61	c
7/31/2008	c	c	2.24	c
9/30/2008	c	21.87	4.35	10.10
avg. = average			DO = dissolved oxygen	
conc. = concentration			NH3-N = ammonia nitrogen	
lbs/day = pounds per day			mg/L = milligrams per liter	
max. = maximum			c = compliant	
min. = minimum				

Compliance History Report

Customer/Respondent/Owner-Operator: CN601550650 Texas Department of Criminal Justice Classification: AVERAGE Rating: 2.73
 Regulated Entity: RN102412558 TDCJ DARRINGTON UNIT Classification: AVERAGE Site Rating: 0.56

ID Number(s):	WASTEWATER AGRICULTURE	PERMIT	TXG920526
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	0200204
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	BL0754K
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	BL0742R
	AIR NEW SOURCE PERMITS	REGISTRATION	53367
	AIR NEW SOURCE PERMITS	REGISTRATION	44377
	AIR NEW SOURCE PERMITS	PERMIT	53606
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	48483
	WATER LICENSING	LICENSE	0200204
	WASTEWATER	PERMIT	WQ0010743001
	WASTEWATER	PERMIT	TPDES0031585
	WASTEWATER	PERMIT	TX0031585
	WASTEWATER	PERMIT	TPDES0031585
	WASTEWATER	PERMIT	TX0031585
	WASTEWATER	PERMIT	WQ0010743001
	WASTEWATER LICENSING	LICENSE	WQ0010743001
	USED OIL	REGISTRATION	A85965

Location: W OF ALVIN AT THE N END OF JACKSON LAKE;
 APPRX 2 MI W AND 3.2 MI N OF THE INTX OF
 SH 288 AND FM 1462 IN BRAZORIA CO, TX

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: April 01, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 01, 2004 to April 01, 2009

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

Name: Lauren Smitherman Phone: 512-239-5223

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

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	04/06/2004	(268394)	36	06/12/2006	(500261)
2	07/15/2004	(355434)	37	08/11/2006	(522354)
3	08/11/2004	(355435)	38	08/16/2006	(522355)
4	08/19/2004	(355436)	39	08/28/2006	(522356)
5	08/21/2004	(355437)	40	10/20/2006	(547043)
6	08/25/2004	(355439)	41	11/06/2006	(547044)
7	09/14/2004	(355438)	42	12/01/2006	(547045)
8	10/04/2004	(335975)	43	12/29/2006	(547046)
9	10/12/2004	(336776)	44	02/09/2007	(579512)
10	10/12/2004	(336785)	45	03/08/2007	(579506)
11	12/16/2004	(340017)	46	03/29/2007	(579507)
12	04/07/2005	(421609)	47	04/27/2007	(579508)
13	04/07/2005	(421610)	48	05/23/2007	(579509)
14	04/07/2005	(421611)	49	06/16/2007	(579510)
15	04/07/2005	(421612)	50	07/19/2007	(579511)
16	04/07/2005	(442575)	51	08/15/2007	(602843)
17	04/07/2005	(442576)	52	09/18/2007	(602844)
18	04/19/2005	(378046)	53	10/16/2007	(602845)
19	05/12/2005	(421606)	54	11/18/2007	(621214)
20	05/31/2005	(421605)	55	12/19/2007	(621215)
21	05/31/2005	(421613)	56	01/17/2008	(621216)
22	06/10/2005	(421607)	57	02/15/2008	(673298)
23	06/16/2005	(421608)	58	03/19/2008	(673299)
24	09/30/2005	(442573)	59	04/02/2008	(639942)
25	10/10/2005	(471700)	60	04/18/2008	(673300)
26	10/11/2005	(442574)	61	05/20/2008	(691455)
27	12/01/2005	(471701)	62	06/18/2008	(691456)
28	12/27/2005	(440379)	63	07/17/2008	(691457)
29	01/06/2006	(471702)	64	08/20/2008	(712392)
30	01/26/2006	(452926)	65	09/25/2008	(712393)
31	02/10/2006	(471703)	66	10/20/2008	(712394)
32	03/10/2006	(457816)	67	11/17/2008	(728655)
33	03/14/2006	(471699)	68	01/15/2009	(728656)
34	04/19/2006	(500259)	69	03/19/2009	(721066)
35	05/19/2006	(500260)			

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

Date: 10/31/2004 (421611)

CN601550650

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 12/16/2004 (340017) CN601550650

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.2

Description: Failure to properly maintain the offsite lift stations.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.4(g)

Description: Failure to properly operate and maintain the aeration basin.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.4(d)

Description: Failure to properly operate and maintain the clarifier.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)
 30 TAC Chapter 305, SubChapter F 305.125(11)(C)

Description: Failure to produce the required the annual sludge report for review during the investigation.
 Self Report? NO Classification: Moderate
 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)

Description: Failure to prevent the discharge of sludge.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)

Description: Failure to properly preserve samples.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(e)

Description: Failure to properly report analytical results.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)

Description: Failure to produce the required Discharge Monitoring Reports (DMRs) for review during the investigation.

Date: 12/31/2004 (421613) CN601550650

Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2006 (522355)

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: 10/31/2006 (547045)

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 (579508) CN601550650

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: 04/30/2007 (579509) CN601550650
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: 05/31/2008 (691456) CN601550650
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2008 (691457) CN601550650
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2008 (712392) CN601550650
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2008 (712394) CN601550650
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2008 (728656) CN601550650
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

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
TEXAS DEPARTMENT OF
CRIMINAL JUSTICE
RN102412558

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§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0462-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Texas Department of Criminal Justice ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located west of Alvin at the north end of Jackson Lake; approximately two miles west and 3.2 miles north of the intersection of State Highway 288 and Farm-to-Market Road 1462 in Brazoria County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about March 24, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Three Thousand Three Hundred Sixty Dollars (\$3,360) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Two Thousand Six Hundred Eighty-Eight Dollars (\$2,688) of the administrative penalty shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP") and Six Hundred Seventy-Two Dollars (\$672) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On July 22, 2008, began processing 334,150 gallons of influent with a belt press to reduce solids in the aerator;
 - b. On January 16, 2009, repaired the aerator valves and aerator diffusers to maintain proper aeration; and
 - c. On March 30, 2009, submitted the annual sludge report for the monitoring period ending July 31, 2008.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to comply with permitted effluent limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010743001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, as documented during a record review conducted on December 10, 2008, and shown in the following Effluent Violation Table:

EFFLUENT VIOLATION TABLE				
	DO Monthly Min.	NH3-N Daily Avg. Loading	NH3-N Daily Avg. Conc.	NH3-N Daily Max. Conc.
Months	Limit = 6 mg/L	Limit = 13 lbs/day	Limit = 2.0 mg/L	Limit = 10 mg/L
5/31/2008	5.00	c	c	c
6/30/2008	c	20.39	3.61	c
7/31/2008	c	c	2.24	c
9/30/2008	c	21.87	4.35	10.10
avg. = average			DO = dissolved oxygen	
conc. = concentration			NH3-N = ammonia nitrogen	
lbs/day = pounds per day			mg/L = milligrams per liter	
max. = maximum			c = compliant	
min. = minimum				

- Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2008, by September 1, 2008, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010743001, Sludge Provisions, as documented during a record review conducted on December 10, 2008.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

- It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Texas Department of Criminal Justice, Docket No. 2009-0462-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 Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE §7.067. As set forth in Section I, Paragraph 6 above, Two Thousand Six Hundred Eighty-Eight Dollars (\$2,688) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0010743001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

Water Section Manager
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent 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 Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days

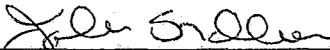
after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This 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.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

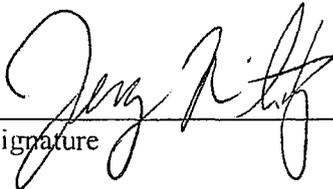
Date 7/27/2009

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

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

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

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



Signature

Date 6/4/09

JERRY MCINTY

Name (Printed or typed)
Authorized Representative of
Texas Department of Criminal Justice

CHIEF FINANCIAL OFFICER

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: 2009-0462-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Texas Department of Criminal Justice
Payable Penalty Amount: Two Thousand Six Hundred Eighty-Eight Dollars (\$2,688)
SEP Amount: Two Thousand Six Hundred Eighty-Eight Dollars (\$2,688)
Type of SEP: Pre-approved
Third-Party Recipient: Brazoria County - Wastewater Treatment Assistance For Low-Income Homeowners
Location of SEP: Brazoria County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent will contribute to Brazoria County to provide assistance to low income homeowners to repair or replace failing or inadequately designed On-Site Sewage Facilities ("OSSFs") within the county. Many of the OSSFs currently in operation in Brazoria County are substandard and result in the release of sewage in residential areas, public rights-of-way, and waterways.

Brazoria County shall not charge homeowners for any portion of the cost of the project paid for by SEP funds.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by preventing the continued release of raw sewage into the environment, which will protect ground, surface, and drinking water sources, and wildlife from contamination from sewage. Important aquatic areas in the Brazoria County area that are likely impacted by the release of sewage include the Brazos River Basin, Christmas Bay, Chocolate Bayou, and Bastrop Bayou.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

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

Brazoria County Environmental Health Services
111 East Locust
Bldg A-29 Suite 270
Angleton, Texas 77515

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to Texas Commission on Environmental Quality and mailed to:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. 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.

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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

