

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0594-MWD-E **TCEQ ID:** RN102181716 **CASE NO.:** 37520

RESPONDENT NAME: City of Teague

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

SITE WHERE VIOLATION(S) OCCURRED: West WWTP, located near the intersection of West 11th Street and Fillmore Street, approximately 4,000 feet west of the intersection of Farm-to-Market Road 80, Jackson Street and Mulberry Street in Freestone County

TYPE OF OPERATION: Wastewater treatment facility

SMALL BUSINESS: Yes No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on August 3, 2009. No comments were received.

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: The Honorable Jacqueline Utsey, Mayor, City of Teague, 105 South 4th Avenue, Teague, Texas 75860-1638

Respondent's Attorney: Not represented by counsel on this enforcement matter

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: February 25, 2009</p> <p>Date of NOE Relating to this Case: April 16, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>1) Failure to comply with the permitted effluent limitations for five-day biochemical oxygen demand and total suspended solids [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010300001, Effluent Limitations and Monitoring Requirements No. 1].</p> <p>2) Failure to timely submit the discharge monitoring report ("DMR") for the monitoring period ending July 31, 2008 by the 20th day of the following month [30 TEX. ADMIN. CODE §§ 305.125(17) and 319.7(d) and TPDES Permit No. WQ0010300001, Monitoring and Reporting Requirements No. 1].</p>	<p>Total Assessed: \$7,462</p> <p>Total Deferred: \$1,492 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$5,970</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 on April 27, 2009, the Respondent submitted the DMR for the monitoring period ending July 31, 2008.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP) (See SEP Attachment A).</p> <p>3) 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. WQ0010300001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported DMRs, 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): WQ0010300001

Attachment A
Docket Number: 2009-0594-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Teague
Payable Penalty Amount: Five Thousand Nine Hundred Seventy Dollars (\$5,970)
SEP Amount: Five Thousand Nine Hundred Seventy Dollars (\$5,970)
Type of SEP: Pre-approved
Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. (RC&D)-Household Hazardous Waste Clean-Up
Location of SEP: Freestone 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 shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide local residents with a means of properly disposing household hazardous wastes such as paint, thinners, pesticides, oil and gas, corrosive cleaners, and fertilizers in one day collection events. SEP monies will be used to pay for the associated labor, materials, and disposal costs. Citizens will not be charged disposal fees. The project is administered in accordance with TCEQ guidance on household hazardous waste and in compliance with federal, state, and local environmental laws and regulations. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing a means of properly disposing household hazardous waste which might otherwise be disposed of in storm drains, the sewage system, or other means detrimental to the environment.

C. Minimum Expenditure

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:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802

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	20-Apr-2009	Screening	24-Apr-2009	EPA Due	
	PCW	24-Apr-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Teague
Reg. Ent. Ref. No.	RN102181716
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37520	No. of Violations	2
Docket No.	2009-0594-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>	\$4,100
ADJUSTMENTS (+/-) TO SUBTOTAL 1		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>		
Compliance History	92.0% Enhancement	<i>Subtotals 2, 3, & 7</i> \$3,772
Notes	Enhancement due to 13 monthly self-reported effluent violations, one NOV with a same or similar violation, one NOV with unrelated violations to those cited in this action, and one final enforcement order containing a denial of liability.	
Culpability	No 0.0% Enhancement	<i>Subtotal 4</i> \$0
Notes	The Respondent does not meet the culpability criteria.	
Good Faith Effort to Comply Total Adjustments		<i>Subtotal 5</i> \$0
Economic Benefit	0.0% Enhancement*	<i>Subtotal 6</i> \$0
Total EB Amounts	\$702	
Approx. Cost of Compliance	\$7,025	
	*Capped at the Total EB \$ Amount	
SUM OF SUBTOTALS 1-7	<i>Final Subtotal</i>	\$7,872
OTHER FACTORS AS JUSTICE MAY REQUIRE	-5.2%	<i>Adjustment</i> -\$410
<small>Reduces or enhances the Final Subtotal by the indicated percentage.</small>		
Notes	Recommend reduction in the penalty so that monthly self-reported violations do not overly-impact the penalty amount.	
	<i>Final Penalty Amount</i>	\$7,462
STATUTORY LIMIT ADJUSTMENT		<i>Final Assessed Penalty</i> \$7,462
DEFERRAL	20.0% Reduction	<i>Adjustment</i> -\$1,492
<small>Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only, e.g. 20 for 20% reduction.)</small>		
Notes	Deferral offered for expedited settlement.	
PAYABLE PENALTY		\$5,970

Screening Date 24-Apr-2009

Docket No. 2009-0594-MWD-E

PCW

Respondent City of Teague

Policy Revision 2 (September 2002)

Case ID No. 37520

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102181716

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)	14	70%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 92%

>> 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 13 monthly self-reported effluent violations, one NOV with a same or similar violation, one NOV with unrelated violations to those cited in this action, and one final enforcement order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 92%

Screening Date	24-Apr-2009	Docket No.	2009-0594-MWD-E	PCW
Respondent	City of Teague	Policy Revision 2 (September 2002)		
Case ID No.	37520	PCW Revision October 30, 2008		
Reg. Ent. Reference No.	RN102181716			
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. WQ0010300001, Effluent Limitations and Monitoring Requirements No. 1.
Violation Description	Failed to comply with the permitted effluent limitations, as documented during a record review on February 25, 2009, 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	Percent <input type="text" value="10%"/>
	Potential				

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent <input type="text" value="0%"/>

Matrix Notes
 A simplified model was used to evaluate biochemical oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids were 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	<input type="text" value="4"/>	<input type="text" value="213"/>	Number of violation days
mark only one with an x	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$4,000"/>
	weekly	<input type="text"/>	
	monthly	<input type="text"/>	
	quarterly	<input checked="" type="checkbox"/>	
	semiannual	<input type="text"/>	
	annual	<input type="text"/>	
	single event	<input type="text"/>	

Four quarterly events are recommended.

Good Faith Efforts to Comply

	0.0% Reduction		\$0
	Before NOV NOV to EDPRP/Settlement Offer		
Extraordinary	<input type="text"/>	<input type="text"/>	
Ordinary	<input type="text"/>	<input type="text"/>	
N/A	<input checked="" type="checkbox"/>	(mark with x)	
Notes	The Respondent does not meet the good faith criteria for this violation.		
Violation Subtotal			\$4,000

Economic Benefit (EB) for this violation	Statutory Limit Test
Estimated EB Amount <input type="text" value="\$701"/>	Violation Final Penalty Total <input type="text" value="\$7,280"/>
This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$7,280"/>	

Economic Benefit Worksheet

Respondent City of Teague
Case ID No. 37520
Reg. Ent. Reference No. RN102181716
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				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	\$7,000	31-Jan-2006	31-Jan-2010	2.00	\$701	n/a	\$701
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to remove and dispose of excess sludge within the Facility. Date Required is the first month of non compliance. 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

\$7,000

TOTAL

\$701

Screening Date 24-Apr-2009	Docket No. 2009-0594-MWD-E	PCW																						
Respondent City of Teague		<small>Policy Revision 2 (September 2002)</small>																						
Case ID No. 37520		<small>PCW Revision October 30, 2008</small>																						
Reg. Ent. Reference No. RN102181716																								
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 319.7(d) and TPDES Permit No. WQ0010300001, Monitoring and Reporting Requirements No. 1																							
Violation Description	Failed to timely submit the discharge monitoring report ("DMR") for the monitoring period ending July 31, 2008 by the 20th day of the following month, as documented during a record review on February 25, 2009.																							
	Base Penalty	<input type="text" value="\$10,000"/>																						
>> Environmental, Property and Human Health Matrix																								
OR	Release	Harm																						
		Major Moderate Minor																						
	Actual	<table border="1" style="width:100%;"><tr><td style="width:33%;"></td><td style="width:33%;"></td><td style="width:33%;"></td></tr></table>				Percent <input type="text" value="0%"/>																		
	Potential	<table border="1" style="width:100%;"><tr><td style="width:33%;"></td><td style="width:33%;"></td><td style="width:33%;"></td></tr></table>																						
>> Programmatic Matrix																								
	Falsification	Major	Moderate	Minor																				
	<table border="1" style="width:100%;"><tr><td style="width:33%;"></td><td style="width:33%;"></td><td style="width:33%;"></td></tr></table>				<table border="1" style="width:100%;"><tr><td style="width:33%;"></td><td style="width:33%;"></td><td style="width:33%;"></td></tr></table>				<table border="1" style="width:100%;"><tr><td style="width:33%;"></td><td style="width:33%;"></td><td style="width:33%; text-align: center;">x</td></tr></table>			x	Percent <input type="text" value="1%"/>											
		x																						
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="247"/>																						
<small>mark only one with an x</small>		<table border="1" style="width:100%;"><tr><td style="width:33%;">daily</td><td style="width:33%;"></td><td style="width:33%;"></td></tr><tr><td>weekly</td><td></td><td></td></tr><tr><td>monthly</td><td></td><td></td></tr><tr><td>quarterly</td><td></td><td></td></tr><tr><td>semiannual</td><td></td><td></td></tr><tr><td>annual</td><td></td><td></td></tr><tr><td>single event</td><td style="text-align: center;">x</td><td></td></tr></table>	daily			weekly			monthly			quarterly			semiannual			annual			single event	x		Violation Base Penalty
daily																								
weekly																								
monthly																								
quarterly																								
semiannual																								
annual																								
single event	x																							
			<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 EDPRP/Settlement Offer</small>																						
	Extraordinary	<table border="1" style="width:100%;"><tr><td style="width:50%;"></td><td style="width:50%;"></td></tr></table>																						
	Ordinary	<table border="1" style="width:100%;"><tr><td style="width:50%;"></td><td style="width:50%;"></td></tr></table>																						
	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																								
Estimated EB Amount		<input type="text" value="\$1"/>	Violation Final Penalty Total																					
			<input type="text" value="\$182"/>																					
This violation Final Assessed Penalty (adjusted for limits)			<input type="text" value="\$182"/>																					

Economic Benefit Worksheet

Respondent: City of Teague
Case ID No: 37520
Reg. Ent. Reference No: RN102181716
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
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$25	20-Aug-2008	27-Apr-2009	0.68	\$1	n/a	\$1
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to properly prepare and submit the DMR. Date required is the date the DMR was due. Final date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs:

Approx. Cost of Compliance	\$25	TOTAL	\$1
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EFFLUENT VIOLATION TABLE		
City of Teague		
TPDES Permit No. WQ0010300001		
Docket No. 2009-0594-MWD-E		
	BOD5 Daily Avg. Conc.	TSS Daily Avg. Conc.
Months	Limit = 30 mg/L	Limit = 90 mg/L
1/31/2008	35.2	c
2/29/2008	31.8	c
5/31/2008	35.3	c
6/30/2008	64.8	98
8/31/2008	38.5	c
9/30/2008	34.0	c
10/31/2008	33.8	c
TSS = total suspended solids		c = compliant
BOD5 = biochemical oxygen demand (5-day)		conc. = concentration
mg/L = milligrams per liter		avg. = average

Compliance History Report

Customer/Respondent/Owner-Operator: CN600513121 City of Teague Classification: AVERAGE Rating: 2.67
Regulated Entity: RN102181716 WEST WWTP Classification: AVERAGE Site Rating: 2.27

ID Number(s): WASTEWATER PERMIT WQ0010300001
WASTEWATER PERMIT TPDES0034509
WASTEWATER PERMIT TX0034509
WASTEWATER LICENSING LICENSE WQ0010300001

Location: NEAR THE INTX OF W 11TH ST AND FILLMORE ST;
APPRX 4,000 FT W OF THE INTX OF FM RD 80,
JACKSON ST AND MULBERRY ST IN FREESTONE CO, TX

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: April 24, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 24, 2004 to April 24, 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/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator 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.

Effective Date: 10/25/2007

ADMINORDER 2007-0178-MWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT

Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Self-reporting Requirements PERMIT

Description: Failure to submit monitoring results at the intervals specified in the permit as documented by a TCEQ record review.

- 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	06/25/2004 (355835)		33	01/19/2007	(536040)
	2 06/25/2004 (355836)		34	02/02/2007	(537606)
	3 07/26/2004 (355837)		35	02/02/2007	(579997)
	4 08/30/2004 (355838)		36	02/27/2007	(579991)
	5 10/08/2004 (355839)		37	03/26/2007	(579992)
	6 11/05/2004 (355840)		38	04/25/2007	(579993)
	7 12/01/2004 (383940)		39	05/31/2007	(579994)
	8 01/31/2005 (383941)		40	06/28/2007	(579995)
	9 03/02/2005 (421872)		41	07/30/2007	(603000)
	10 03/31/2005 (421873)		42	08/30/2007	(603001)
	11 05/06/2005 (421874)		43	09/27/2007	(603002)
	12 06/01/2005 (421875)		44	10/26/2007	(621416)
	13 06/27/2005 (421876)		45	11/12/2007	(600641)
	14 08/17/2005 (442763)		46	11/29/2007	(621417)
	15 08/29/2005 (442764)		47	01/02/2008	(673433)
	16 08/30/2005 (393168)		48	01/28/2008	(673434)
	17 09/28/2005 (442765)		49	03/05/2008	(691658)
	18 10/31/2005 (472124)		50	03/24/2008	(691659)
	19 12/12/2005 (472125)		51	05/01/2008	(691660)
	20 01/11/2006 (472126)		52	05/27/2008	(712615)
	21 02/10/2006 (472127)		53	06/30/2008	(712616)
	22 04/03/2006 (500527)		54	07/23/2008	(685648)
	23 04/10/2006 (500526)		55	08/01/2008	(712617)
	24 11/02/2006 (547364)		56	09/29/2008	(712618)
	25 11/02/2006 (547365)		57	11/03/2008	(728825)
	26 11/02/2006 (547366)		58	11/12/2008	(704063)
	27 11/02/2006 (547367)		59	12/10/2008	(728826)
	28 11/02/2006 (547368)		60	01/26/2009	(728824)
	29 11/02/2006 (547369)		61	02/13/2009	(725693)
	30 11/02/2006 (547370)		62	04/16/2009	(736827)
	31 11/27/2006 (547371)				
	32 01/18/2007 (579996)				

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

Date: 08/24/2005 (393168) CN600513121
Self Report? NO Classification: Minor
Citation:
30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.4(i)
Description: Failure to maintain two foot of freeboard in the treatment lagoons.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: Failure to maintain the grounds around the treatment lagoons.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to properly install, and maintain the final flow measuring device at the wastewater treatment plant.

Date: 11/30/2005 (472126) CN600513121
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2005 (472127) CN600513121

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 (547367) CN600513121
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2006 (547369) CN600513121
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2006 (547370) CN600513121
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 (579993) CN600513121
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2008 (691658) CN600513121
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: 02/29/2008 (691659) CN600513121
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2008 (712616) CN600513121
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 (712617) CN600513121
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: 07/28/2008 (685648) CN600513121
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
Operational Requirements, Pg. 9 No. 1 PERMIT
Description: Failure by the permittee to ensure that all systems of collection, treatment, and

disposal are properly operated and maintained.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 317 317.7(e)
 Description: Failure by the permittee to comply with safety regulations.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.4(b)(4)
 Operational Requirements, No. 1 Pg. 9 PERMIT
 Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 Operational Requirements, No. 1 Pg. 9 PERMIT
 Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Operational Requirements No. 3 Pg. 9 PERMIT
 Description: Failure by the permittee to submit a closure plan to the municipal permit team prior to abandoning a process unit.
 Self Report? NO Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F 305.125(4)
 Permit Conditions, No. 2g Pg. 7 PERMIT
 Description: Failure by the permittee to prevent the discharge of wastewater into or adjacent to water in the state without authorization from the Commission.

Date: 08/31/2008 (712618) CN600513121
 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 (728825) CN600513121
 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: 10/31/2008 (728826) CN600513121
 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
CITY OF TEAGUE
RN102181716

§
§
§
§
§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0594-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 City of Teague ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City appear before the Commission and together stipulate that:

1. The City owns a wastewater treatment facility located near the intersection of West 11th Street and Fillmore Street, approximately 4,000 feet west of the intersection of Farm-to-Market Road 80, Jackson Street and Mulberry Street in Freestone County, Texas (the "Facility").
2. The City has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about April 21, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Seven Thousand Four Hundred Sixty-Two Dollars (\$7,462) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Five Thousand Nine Hundred Seventy Dollars (\$5,970) of the administrative penalty shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP") and One Thousand Four Hundred Ninety-Two Dollars (\$1,492) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that on April 27, 2009, the City submitted the discharge monitoring report ("DMR") 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 City 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 of the Facility, the City is alleged to have:

1. Failed to comply with the 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. WQ0010300001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on February 25, 2009, and shown in the following Effluent Violation Table:

EFFLUENT VIOLATION TABLE		
	BOD5 Daily Avg. Conc.	TSS Daily Avg. Conc.
Months	Limit = 30 mg/L	Limit = 90 mg/L
1/31/2008	35.2	c
2/29/2008	31.8	c
5/31/2008	35.3	c
6/30/2008	64.8	98
8/31/2008	38.5	c
9/30/2008	34.0	c
10/31/2008	33.8	c
TSS = total suspended solids		c = compliant
BOD5 = biochemical oxygen demand (5-day)		conc. = concentration
mg/L = milligrams per liter		avg. = average

- Failed to timely submit the DMR for the monitoring period ending July 31, 2008 by the 20th day of the following month, in violation of 30 TEX. ADMIN. CODE §§ 305.125(17) and 319.7(d) and TPDES Permit No. WQ0010300001, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on February 25, 2009.

III. DENIALS

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

IV. ORDERING PROVISIONS

- It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Teague, Docket No. 2009-0594-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

- The City shall implement and complete a SEP in accordance with TEX. WATER CODE §7.067. As set forth in Section I, Paragraph 6 above, Five Thousand Nine Hundred Seventy Dollars (\$5,970) 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. It is further ordered that the City 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. WQ0010300001, 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
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

4. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Brullen
For the Executive Director

8/3/2009
Date

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

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

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

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

Jacqueline Utsey
Signature

6/8/09
Date

Jacqueline Utsey
Name (Printed or typed)
Authorized Representative of
City of Teague

Mayor
Title

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

Attachment A
Docket Number: 2009-0594-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Teague
Payable Penalty Amount: Five Thousand Nine Hundred Seventy Dollars (\$5,970)
SEP Amount: Five Thousand Nine Hundred Seventy Dollars (\$5,970)
Type of SEP: Pre-approved
Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. (RC&D)-Household Hazardous Waste Clean-Up
Location of SEP: Freestone 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 shall contribute the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide local residents with a means of properly disposing household hazardous wastes such as paint, thinners, pesticides, oil and gas, corrosive cleaners, and fertilizers in one day collection events. SEP monies will be used to pay for the associated labor, materials, and disposal costs. Citizens will not be charged disposal fees. The project is administered in accordance with TCEQ guidance on household hazardous waste and in compliance with federal, state, and local environmental laws and regulations. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing a means of properly disposing household hazardous waste which might otherwise be disposed of in storm drains, the sewage system, or other means detrimental to the environment.

C. Minimum Expenditure

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:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802

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.

