

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0974-MWD-E TCEQ ID: RN101610327 CASE NO.: 37811

RESPONDENT NAME: City of Corpus Christi

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: OSO Facility, 501 Nile Drive, Corpus Christi, Nueces County, with an eight-inch force main located at 7500 Cimarron Boulevard, Corpus Christi, Nueces County</p> <p>TYPE OF OPERATION: Wastewater treatment facility with an associated wastewater collection system</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 December 7, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Mr. Steve Villatoro, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4930; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: The Honorable Joe Adame, Mayor, City of Corpus Christi, P.O. Box 9277, Corpus Christi, Texas 78469 Mr. Ángel R. Escobar, P.E., City Manager, City of Corpus Christi, P.O. Box 9277, Corpus Christi, Texas 78469 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 20, 2009</p> <p>Date of NOV/NOE Relating to this Case: May 27, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>Failure to prevent the unauthorized discharge of wastewater into or adjacent to water in the state. Specifically, staff documented a discharge of wastewater that occurred from an eight-inch force main break located at 7500 Cimarron Boulevard. Approximately 200 gallons of wastewater were discharged into the storm water collection system that discharged into a drainage ditch near Bill Witt Park, killing an estimated ten fish. Water quality samples indicated dissolved oxygen concentrations of 0.46 milligrams per liter [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010401004, Permit Conditions No. 2.d.].</p>	<p>Total Assessed: \$7,300</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$7,300</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>Findings Orders Justification: Environmental receptors have been exposed to pollutants which exceeded levels that are protective.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that by April 21, 2009, the Respondent implemented the following corrective measures at the System:</p> <p>a. Repaired the force main located at 7500 Cimarron Boulevard; and</p> <p>b. Cleaned and disinfected the catch basin, drainage ditch, and surrounding area with calcium hypochlorite and removed and properly disposed of dead fish.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A.)</p>

Additional ID No(s):
 WQ0010401004

Attachment A
Docket Number: 2009-0974-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Corpus Christi
Payable Penalty Amount: Seven Thousand Three Hundred Dollars (\$7,300)
SEP Amount: Seven Thousand Three Hundred Dollars (\$7,300)
Type of SEP: Pre-approved
Third-Party Recipient: Coastal Bend Bays and Estuaries Program, Inc.
Location of SEP: Nueces 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 to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used for the Colonial Waterbird Rookery Island Enhancement Project. Shamrock and Causeway Islands are important rookery island with heavy bird usage that are experiencing significant loss of wetland and rookery habitat due to dredging activities and erosion from waves and ships. SEP monies will be used to pay for the labor and material costs associated with preventing erosion in the unprotected areas of the islands and restoring parts of the islands that have suffered from erosion. The project will protect critical bird habitat and also enhance the wetlands.

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 enhancing the colonial waterbird habitat on Causeway and Shamrock Islands in Nueces County. The project will result in: stabilization of the islands, protection of the birds, reduction of erosion, creation of wetland habitat and bird nesting habitat, creation of submerged aquatic vegetation, and maintenance of the Corpus Christi Bay system.

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:

Coastal Bend Bays and Estuaries Program, Inc.
Attn: Ray Allen, Executive Director
1305 North Shoreline Drive, Suite 205
Corpus Christi, Texas 78401

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:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
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	1-Jun-2005	Screening	10-Jun-2009	EPA Due	
	PCW	10-Jun-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Corpus Christi
Reg. Ent. Ref. No.	RN101610327
Facility/Site Region	14-Corpus Christi
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37811	No. of Violations	1
Docket No.	2009-0974-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Steve Villatoro
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit	Minimum \$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$5,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	71.0% Enhancement	Subtotals 2, 3, & 7	\$3,550
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Notes
The penalty is enhanced due to five self-reported monthly effluent violations, three NOV's with violations same/similar to those cited in this action, three NOV's without same/similar violations, and one agreed order without denial of liability.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$1,250
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$1
Approx. Cost of Compliance \$9,500
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$7,300
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$7,300
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$7,300
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY	\$7,300
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Screening Date 10-Jun-2009

Docket No. 2009-0974-MWD-E

PCW

Respondent City of Corpus Christi

Policy Revision 2 (September 2002)

Case ID No. 37811

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101610327

Media [Statute] Water Quality

Enf. Coordinator Steve Villatoro

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)	8	40%
	Other written NOVs	3	6%
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	1	25%
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) 71%

>> **Repeat Violator (Subtotal 3)**

No

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

The penalty is enhanced due to five self-reported monthly effluent violations, three NOVs with violations same/similar to those cited in this action, three NOVs without same/similar violations, and one agreed order without denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 71%

Screening Date: 10-Jun-2009	Docket No.: 2009-0974-MWD-E	PCW		
Respondent: City of Corpus Christi	<i>Policy Revision 2 (September 2002)</i>			
Case ID No.: 37811	<i>PCW Revision October 30, 2008</i>			
Reg. Ent. Reference No.: RN101610327				
Media [Statute]: Water Quality				
Enf. Coordinator: Steve Villatoro				
Violation Number: 1				
Rule Cite(s):	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010401004, Permit Conditions No. 2.d.			
Violation Description:	Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, as documented during an investigation conducted on April 20, 2009. Specifically, an unauthorized discharge of approximately 200 gallons of wastewater, caused by a force main break located at 7500 Cimarron Boulevard, entered into the storm water collection system that discharged into a drainage ditch near Bill Witt Park. The investigator observed ten dead fish and water quality samples indicated dissolved oxygen concentrations of 0.46 milligrams per liter.			
Base Penalty:	\$10,000			
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	x		
	Potential			
				Percent: 50%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
				Percent: 0%
Matrix Notes:	Human health or the environment has been exposed to pollutants that exceed protective levels as a result of this violation.			
Adjustment:	\$5,000			
			\$5,000	
Violation Events				
	Number of Violation Events:	1	Number of violation days:	1
<i>mark only one with an x</i>		daily	x	
		weekly		
		monthly		
		quarterly		
		semiannual		
		annual		
		single event		
				Violation Base Penalty: \$5,000
One daily event is recommended.				
Good Faith Efforts to Comply			25.0% Reduction	\$1,250
	Extraordinary	Before NOV	NOV to EDRP/Settlement Offer	
	Ordinary	x		
	N/A	(mark with x)		
Notes:	The Respondent achieved compliance by April 21, 2009.			
			Violation Subtotal:	\$3,750
Economic Benefit (EB) for this violation			Statutory Limit Test	
	Estimated EB Amount:	\$1	Violation Final Penalty Total:	\$7,300
			This violation Final Assessed Penalty (adjusted for limits):	\$7,300

Economic Benefit Worksheet

Respondent: City of Corpus Christi
Case ID No.: 37811
Reg. Ent. Reference No.: RN101610327
Media: Water Quality
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction	\$3,500	20-Apr-2009	21-Apr-2009	0.00	\$0	\$1	\$1
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	\$5,000	20-Apr-2009	21-Apr-2009	0.00	\$1	n/a	\$1
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs to replace the broken main and to clean and disinfect the affected area, including removal and proper fish disposal. The date required is the date of the discharge. The final date is the date of compliance.

Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$8,600	TOTAL	\$1
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Compliance History Report

Customer/Respondent/Owner-Operator:	CN600131858	City of Corpus Christi	Classification: AVERAGE	Rating: 2.49
Regulated Entity:	RN101610327	OSO FACILITY	Classification: AVERAGE	Site Rating: 2.15
ID Number(s):	WASTEWATER	PERMIT	WQ0010401004	
	WASTEWATER	PERMIT	TPDES0047058	
	WASTEWATER	PERMIT	TX0047058	
	PRETREATMENT	EPA ID	TX0047058000	
	PRETREATMENT	PERMIT	WQ0010401004	
	WASTEWATER LICENSING	LICENSE	WQ0010401004	
Location:	501 NILE DR, CORPUS CHRISTI, TX, 78412			
TCEQ Region:	REGION 14 - CORPUS CHRISTI			
Date Compliance History Prepared:	June 05, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	June 05, 2004 to June 05, 2009			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Steve Villatoro	Phone:	512-239-4930	

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: 04/28/2008 | ADMINORDER 2007-1436-MWD-E |
| Classification: Moderate | |
| Citation: 30 TAC Chapter 305, SubChapter F 305.125(1) | |
| 30 TAC Chapter 305, SubChapter F 305.125(9) | |
- Rqmt Prov: Reporting Requirements, No. 7; Pg. 5-6 PERMIT
 Description: Failed to provide notification of unauthorized discharges from the collection system orally within 24 hours after becoming aware of the discharges
 Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 Rqmt Prov: Permit Conditions, No. 2(g), Pg. 7 PERMIT
 Description: failed to prevent the unauthorized discharge of wastewater from the bar screen at the Facility into or adjacent to water in the state
- 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 | 06/10/2004 | (274233) |
| 2 | 06/22/2004 | (305350) |
| 3 | 09/17/2004 | (356127) |
| 4 | 09/21/2004 | (356128) |
| 5 | 10/25/2004 | (356129) |
| 6 | 10/25/2004 | (356131) |
| 7 | 11/23/2004 | (356130) |
| 8 | 12/22/2004 | (384108) |
| 9 | 02/22/2005 | (384107) |
| 10 | 03/01/2005 | (351082) |
| 11 | 03/22/2005 | (422028) |
| 12 | 04/25/2005 | (422029) |
| 13 | 04/25/2005 | (422032) |
| 14 | 05/23/2005 | (422030) |
| 15 | 08/21/2005 | (422031) |

16	06/30/2005	(394282)
17	09/02/2005	(442920)
18	09/23/2005	(442921)
19	10/11/2005	(434020)
20	10/24/2005	(472413)
21	11/22/2005	(472414)
22	12/27/2005	(472415)
23	01/24/2006	(472416)
24	02/24/2006	(472411)
25	03/22/2006	(472412)
26	04/18/2006	(500772)
27	04/18/2006	(500775)
28	05/22/2006	(500773)
29	06/23/2006	(500774)
30	07/11/2006	(466210)
31	08/31/2006	(522917)
32	09/22/2006	(547703)
33	10/24/2006	(547704)
34	10/24/2006	(547707)
35	11/27/2006	(547705)
36	12/27/2006	(547706)
37	01/08/2007	(553709)
38	02/23/2007	(580474)
39	03/23/2007	(580475)
40	04/23/2007	(580476)
41	05/15/2007	(559089)
42	05/18/2007	(580477)
43	06/25/2007	(580478)
44	07/17/2007	(580479)
45	08/28/2007	(603111)
46	09/24/2007	(603112)
47	10/23/2007	(621570)
48	10/23/2007	(621572)
49	11/26/2007	(621571)
50	12/27/2007	(673527)
51	02/21/2008	(673525)
52	03/24/2008	(673526)
53	04/22/2008	(691773)
54	04/22/2008	(691776)
55	05/19/2008	(671011)
56	05/22/2008	(691774)
57	06/09/2008	(880334)
58	06/23/2008	(691775)
59	07/30/2008	(685552)
60	08/20/2008	(712743)
61	09/23/2008	(712744)
62	10/21/2008	(712745)
63	12/02/2008	(728951)
64	12/29/2008	(728952)
65	01/23/2009	(728953)
66	03/05/2009	(728410)
67	05/27/2009	(744023)

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

Date: 06/11/2004 (274233)

Self Report? NO Classification Moderate

Citation: TWC Chapter 26 26.121
WQ0010401-004 PERMIT

Description: Failure to prevent the discharge of wastewater into or adjacent to waters of the state.

Self Report? NO Classification Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0010401-004 PERMIT

Description: Failure to ensure that the facility and all its systems of collection, treatment, and disposal are properly operated and maintained.

Date: 07/16/2005 (394282)

Self Report? NO Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)

Permit Conditions OP
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 unauthorized discharges in the collection system.

Date: 03/31/2006 (500772) CN600131858

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 (500776) CN600131858

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: 01/08/2007 (553709)

Self Report? NO Classification: Moderate

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

30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOL FOR MONIT PER OR PIPE

Date: 02/28/2007 (580475) CN600131858

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: 06/30/2007 (580479) CN600131858

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: 09/05/2007 (593516) CN600131858

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.11(a)

Description: Failure to ensure all sample collection is conducted according to recommendations found in the latest edition of Standard Methods for the Examination of Water and Wastewater, or the Environmental Protection Agency manual entitled Methods for Chemical Analysis of Water and Wastes (1979), or the Environmental Protection Agency manual entitled Biological Field and Laboratory Methods for Measuring the Quality of Surface Waters and Effluents (1973).

Date: 07/30/2008 (685552)

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 317 317.4(a)(8)

30 TAC Chapter 317 317.7(i)

Operational Requirements No. 1 PERMIT

Description: Failure to replace a RPZ backflow prevention device after it failed the annual test.

Self Report? NO Classification: Moderate

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

2D TWC Chapter 26, SubChapter A 26.121(a)(1)

2D TWC Chapter 26, SubChapter A 26.121(a)(3)

2D TWC Chapter 26, SubChapter A 26.121(b)

2D TWC Chapter 26, SubChapter A 26.121(c)

2D TWC Chapter 26, SubChapter A 26.121(d)

2D TWC Chapter 26, SubChapter A 26.121(e)

30 TAC Chapter 305, SubChapter F 305.125(4)

30 TAC Chapter 305, SubChapter F 305.125(5)

Permit Conditions 2.g. PERMIT

TWC Chapter 26 26.121

TWC Chapter 26 26.121(a)(2)

Description: Failure to prevent the unauthorized discharge of untreated wastewater from the collection system on 273 separate occasions as listed in Attachment 9.

Date: 08/31/2008 (712744) CN600131858

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: 02/26/2009 (736071) CN600131858

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)
30 TAC Chapter 290, SubChapter D 290.44(h)(4)
30 TAC Chapter 290, SubChapter D 290.47(i)
WQ Permit No. 10401-004 PERMIT

Description: An inspection of the lift station documented that the public water system was not properly protected by use of a reduced-pressure principle backflow prevention assembly device (RPBA) or an air gap (AG).

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 CORPUS CHRISTI
RN101610327**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-0974-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Corpus Christi ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City presented this agreement to the Commission.

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

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the City.

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

I. FINDINGS OF FACT

1. The City owns and operates a wastewater treatment facility with an associated wastewater collection system that includes an eight-inch force main located at 7500 Cimarron Boulevard in Corpus Christi, Nueces County, Texas (the "System").

2. The City has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation on April 20, 2009, TCEQ staff documented a discharge of wastewater that occurred from an eight-inch force main break located at 7500 Cimarron Boulevard. Approximately 200 gallons of wastewater was discharged into the storm water collection system that discharged into a drainage ditch near Bill Witt Park, killing an estimated ten fish. Water quality samples indicated dissolved oxygen concentrations of 0.46 milligrams per liter.
4. The City received notice of the violations on May 28, 2009.
5. The Executive Director recognizes that by April 21, 2009, the City implemented the following corrective measures at the System:
 - a. Repaired the force main located at 7500 Cimarron Boulevard; and
 - b. Cleaned and disinfected the catch basin, drainage ditch, and surrounding area with calcium hypochlorite and removed and properly disposed of the dead fish.

II. CONCLUSIONS OF LAW

1. The City is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the City failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. WQ0010401004, Permit Conditions No. 2.d.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Seven Thousand Three Hundred Dollars (\$7,300) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Seven Thousand Three Hundred Dollars (\$7,300) shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP").

III. ORDERING PROVISIONS

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

1. The City is assessed an administrative penalty in the amount of Seven Thousand Three Hundred Dollars (\$7,300) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Corpus Christi, Docket No. 2009-0974-MWD-E" to:

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

2. The City shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II Paragraph 4 above, Seven Thousand Three Hundred Dollars (\$7,300) of the assessed administrative penalty shall be offset with the condition that the City implements the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas (“OAG”) for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission’s jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV’T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Miller
For the Executive Director

11/13/2009
Date

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

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

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

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

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

Angel R. Escobar
Signature

9/16/09
Date

'Angel R. Escobar, P.E.

City Manager

Name (Printed or typed)
Authorized Representative of
City of Corpus Christi

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: 2009-0974-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Corpus Christi
Payable Penalty Amount:	Seven Thousand Three Hundred Dollars (\$7,300)
SEP Amount:	Seven Thousand Three Hundred Dollars (\$7,300)
Type of SEP:	Pre-approved
Third-Party Recipient:	Coastal Bend Bays and Estuaries Program, Inc.
Location of SEP:	Nueces 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 to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used for the Colonial Waterbird Rookery Island Enhancement Project. Shamrock and Causeway Islands are important rookery island with heavy bird usage that are experiencing significant loss of wetland and rookery habitat due to dredging activities and erosion from waves and ships. SEP monies will be used to pay for the labor and material costs associated with preventing erosion in the unprotected areas of the islands and restoring parts of the islands that have suffered from erosion. The project will protect critical bird habitat and also enhance the wetlands.

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 enhancing the colonial waterbird habitat on Causeway and Shamrock Islands in Nueces County. The project will result in: stabilization of the islands, protection of the birds, reduction of erosion, creation of wetland habitat and bird nesting habitat, creation of submerged aquatic vegetation, and maintenance of the Corpus Christi Bay system.

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:

Coastal Bend Bays and Estuaries Program, Inc.
Attn: Ray Allen, Executive Director
1305 North Shoreline Drive, Suite 205
Corpus Christi, Texas 78401

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:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
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.

