

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2009-0783-MWD-E TCEQ ID: RN102328580 CASE NO.: 37671**

**RESPONDENT NAME: Kleinwood Joint Powers Board**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> Kleinwood Central, located at 15903 Squyres Road, approximately 5,000 feet upstream from the crossing of Stuebner-Airline Road and Cypress Creek on the north bank of Cypress Creek, Harris County</p> <p><b>TYPE OF OPERATION:</b> Wastewater treatment plant</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the BD and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on December 21, 2009. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732  <b>TCEQ Enforcement Coordinator:</b> Ms. Jennifer Graves, Enforcement Division, Enforcement Team 1, MC R-15, (956) 430-6023; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387  <b>Respondent:</b> Mr. Tom Bartlett, President, Kleinwood Joint Powers Board, 1415 Louisiana Street, Houston, Texas 77002  <b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input checked="" type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> March 24, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> May 2, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a record review.</p> <p><b>WATER</b></p> <p>1) Failure to meet the permitted effluent limitations for Ceriodaphnia dubia, 7-day chronic toxicity test [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011409001, Effluent Limitations and Monitoring Requirements Whole Effluent Toxicity ("WET") limit].</p> <p>2) Failure to comply with the permitted effluent limitations for E. coli, total residual chlorine, and total suspended solids ("TSS") [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0011409001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2].</p>	<p><b>Total Assessed:</b> \$18,650</p> <p><b>Total Deferred:</b> \$0  <input type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$18,650</p> <p><b>Total Paid (Due) to General Revenue:</b> \$0</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p> <p><b>Findings Orders Justification:</b> Human health or the environment has been exposed to pollutants which exceed levels that are protective.</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. On February 18, 2008, cleaned and replaced tubing in the auto-sampler and cleaned the chlorine contact chamber to reduce the TSS concentrations;</p> <p>b. On December 4, 2008, repaired the vacuum leak on the sulfur dioxide line;</p> <p>c. On January 2, 2009, overhauled the chlorination system for disinfection purposes; and</p> <p>d. By January 6, 2009, conducted WET testing which met the criteria for Ceriodaphnia dubia, 7-day chronic toxicity test.</p> <p><b>Ordering Provisions:</b></p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0011409001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): WQ0011409001

**Attachment A**  
**Docket Number: 2009-0783-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>Kleinwood Joint Powers Board</b>
<b>Penalty Amount:</b>	<b>Eighteen Thousand Six Hundred Fifty Dollars (\$18,650)</b>
<b>SEP Offset Amount:</b>	<b>Eighteen Thousand Six Hundred Fifty Dollars (\$18,650)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Gulf Coast Waste Disposal Authority - River, Lakes, Bays, and Bayous Trash Bash</b>
<b>Location of SEP:</b>	<b>Harris County</b>

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 Offset 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 Offset Amount to the Third-Party Recipient named above. Trash Bash is an annual event that entails the use of volunteers to clean up trash and pollutants from Galveston Bay and waterways in the San Jacinto watershed. The project has resulted in the removal of an average of 141.7 tons of trash and 729 abandoned tires annually from these waterways. SEP monies will be used to pay for materials, supplies, disposal cost and transportation cost directly associated with the clean up of trash and pollutants from the Galveston Bay and waterways in the San Jacinto watershed.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

The Project will provide a discernible environmental benefit by removing pollutants from the Galveston Bay and waterways in the San Jacinto watershed, which will improve water quality. The project will also help educate volunteers about non-point source pollution and what the volunteers can do to help keep the environment clean.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset 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 Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Gulf Coast Waste Disposal Authority  
Rivers, Lakes, Bays, and Bayous Trash Bash  
Attention: Lori Gernhardt  
910 Bay Area Boulevard  
Houston, TX 77052

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset 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 expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

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

**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 a 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

<b>DATES</b>	Assigned	11-May-2009	Screening	20-May-2009	EPA Due	5-Jun-2009
	PCW	20-May-2009				

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	Kleinwood Joint Powers Board
Reg. Ent. Ref. No.	RN102328580
Facility/Site Region	12-Houston
Major/Minor Source	Major

<b>CASE INFORMATION</b>			
Enf./Case ID No.	37671	No. of Violations	2
Docket No.	2009-0783-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jennifer Graves
		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* **\$15,000**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** 41.0% Enhancement *Subtotals 2, 3, & 7* **\$6,150**

Notes: Enhancement due to seven self-reported monthly effluent violations and three NOVs with unrelated violations.

**Culpability** No 0.0% Enhancement *Subtotal 4* **\$0**

Notes: The Respondent does not meet the culpability criteria.

**Good Faith Effort to Comply Total Adjustments** *Subtotal 5* **\$2,500**

**Economic Benefit** 0.0% Enhancement\* *Subtotal 6* **\$0**

Total EB Amounts \$553  
Approx. Cost of Compliance \$6,935  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** *Final Subtotal* **\$18,650**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 0.0% *Adjustment* **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

*Final Penalty Amount* **\$18,650**

**STATUTORY LIMIT ADJUSTMENT** *Final Assessed Penalty* **\$18,650**

**DEFERRAL** 0.0% Reduction *Adjustment* **\$0**

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** **\$18,650**

**Screening Date:** 20-May-2009

**Docket No.:** 2009-0783-MWD-E

**PCW**

**Respondent:** Kleinwood Joint Powers Board

Policy Revision 2 (September 2002)

**Case ID No.:** 37671

PCW Revision October 30, 2008

**Reg. Ent. Reference No.:** RN102328580

**Media [Statute]:** Water Quality

**Enf. Coordinator:** Jennifer Graves

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action <i>(number of NOVs meeting criteria)</i>	7	35%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government <i>(number of judgements or consent decrees meeting criteria)</i>	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions:	Any criminal convictions of this state or the federal government <i>(number of counts)</i>	0	0%
Emissions:	Chronic excessive emissions events <i>(number of events)</i>	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 41%

>> **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 seven self-reported monthly effluent violations and three NOVs with unrelated violations.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 41%

<b>Screening Date</b> 20-May-2009	<b>Docket No.</b> 2009-0783-MWD-E	<b>PCW</b>		
<b>Respondent</b> Kleinwood Joint Powers Board	<i>Policy Revision 2 (September 2002)</i>			
<b>Case ID No.</b> 37671	<i>PCW Revision October 30, 2009</i>			
<b>Reg. Ent. Reference No.</b> RN102328580				
<b>Media [Statute]</b> Water Quality				
<b>Enf. Coordinator</b> Jennifer Graves				
<b>Violation Number</b> <input type="text" value="1"/>				
<b>Rule Cite(s)</b>	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011408001, Effluent Limitations and Monitoring Requirements, Whole Effluent Toxicity ("WET") limit			
<b>Violation Description</b>	Failed to meet permitted effluent limitations for Ceriodaphnia dubia, 7-day chronic toxicity quarterly sampling, as documented during a record review on March 24, 2009. Specifically, test results taken November 18, 2008 show that the Facility did not meet the No Observed Effect Concentration effluent limitation for Ceriodaphnia dubia survival of not less than 48%.			
<b>Base Penalty</b>		<input type="text" value="\$10,000"/>		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<b>Percent</b>	<input type="text" value="100%"/>	
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<b>Percent</b>	<input type="text" value="0%"/>	
<b>Matrix Notes</b>	Failure of the WET limit is an indicator that the wastewater effluent does not meet levels that are protective of human health and/or the environment.			
<b>Adjustment</b>		<input type="text" value="\$0"/>		
		<input type="text" value="\$10,000"/>		
<b>Violation Events</b>				
	<b>Number of Violation Events</b>	<input type="text" value="1"/>	<input type="text" value="49"/>	<b>Number of violation days</b>
<i>mark only one with an x</i>	daily	<input type="checkbox"/>	<input type="checkbox"/>	<b>Violation Base Penalty</b> <input type="text" value="\$10,000"/>
	weekly	<input type="checkbox"/>	<input type="checkbox"/>	
	monthly	<input type="checkbox"/>	<input type="checkbox"/>	
	quarterly	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
	semiannual	<input type="checkbox"/>	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	<input type="checkbox"/>	
	single event	<input type="checkbox"/>	<input type="checkbox"/>	
One quarterly event is recommended for the quarter containing November 18, 2008.				
<b>Good Faith Efforts to Comply</b>		<b>25.0%</b> Reduction	<input type="text" value="\$2,500"/>	
		Before NOV	NOV to EDRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
N/A	<input type="checkbox"/>	(mark with x)		
<b>Notes</b>	The Respondent achieved compliance by January 6, 2009.			
		<b>Violation Subtotal</b>	<input type="text" value="\$7,500"/>	
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>		
<b>Estimated EB Amount</b>	<input type="text" value="\$12"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$11,600"/>	
		<b>This violation Final Assessed Penalty (adjusted for limits)</b>	<input type="text" value="\$11,600"/>	

### Economic Benefit Worksheet

**Respondent:** Kleinwood Joint Powers Board  
**Case ID No.:** 37671  
**Reg. Ent. Reference No.:** RN102328580  
**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	\$433	18-Nov-2008	4-Dec-2008	0.04	\$0	\$1	\$1
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$402	18-Nov-2008	2-Jan-2009	0.12	\$0	\$3	\$3
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	\$1,000	18-Nov-2008	6-Jan-2009	0.13	\$7	n/a	\$7
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: Actual cost to repair the vacuum leak on the sulfur dioxide line (\$433). Date required is the date of non-compliance. Final date is the date corrective actions were taken. Actual cost to overhaul the chlorination system (\$402). Date required is the date of non-compliance. Final date is the date corrective actions were taken. Estimated cost to conduct WET re-test (\$1,000). Date required is the date of non-compliance. 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

\$1,835

TOTAL

\$12

<b>Screening Date:</b> 20-May-2009	<b>Docket No.:</b> 2009-0783-MWD-E	<b>PCW</b>	
<b>Respondent:</b> Kleinwood Joint Powers Board	<i>Policy Revision 2 (September 2002)</i>		
<b>Case ID No.:</b> 37671	<i>PCW Revision October 30, 2008</i>		
<b>Reg. Ent. Reference No.:</b> RN102328580			
<b>Media [Statute]:</b> Water Quality			
<b>Enf. Coordinator:</b> Jennifer Graves			
<b>Violation Number:</b> 2			
<b>Rule Cite(s):</b>	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0011409001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2		
<b>Violation Description:</b>	Failed to comply with the permitted effluent limitations, as documented during a record review on March 24, 2009, and shown in the attached effluent table.		
<b>Base Penalty</b>		\$10,000	
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>			
OR	<b>Harm</b>		
	Release	Major	Moderate
	Actual	<input type="checkbox"/>	<input type="checkbox"/>
	Potential	<input type="checkbox"/>	<input checked="" type="checkbox"/>
			<b>Percent</b> <input type="text" value="25%"/>
<b>&gt;&gt; Programmatic Matrix</b>			
<b>Falsification</b>			
Major			
Moderate			
Minor			
			<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	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.		
<b>Adjustment</b>			\$7,500
			\$2,500
<b>Violation Events</b>			
<b>Number of Violation Events</b>	<input type="text" value="2"/>	<b>Number of violation days</b>	<input type="text" value="123"/>
<i>mark only one with an x</i>	Daily	<input type="checkbox"/>	<b>Violation Base Penalty</b> <input type="text" value="\$5,000"/>
	weekly	<input type="checkbox"/>	
	monthly	<input type="checkbox"/>	
	quarterly	<input checked="" type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	<input type="checkbox"/>	
Two quarterly events are recommended.			
<b>Good Faith Efforts to Comply</b>	<input type="text" value="0.0%"/>	<b>Reduction</b>	<input type="text" value="\$0"/>
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	
Ordinary	<input type="checkbox"/>	<input type="checkbox"/>	
N/A	<input checked="" type="checkbox"/>	(mark with x)	
<b>Notes</b>	The Respondent does not meet the good faith criteria for this violation.		
<b>Violation Subtotal</b>			\$5,000
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>	
<b>Estimated EB Amount</b>	<input type="text" value="\$541"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$7,050"/>
<b>This violation Final Assessed Penalty (adjusted for limits)</b>			<input type="text" value="\$7,050"/>

## Economic Benefit Worksheet

**Respondent:** Kleinwood Joint Powers Board  
**Case ID No.:** 37671  
**Reg. Ent. Reference No.:** RN102328580  
**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

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)	\$100	31-Jan-2008	18-Feb-2008	0.05	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$5,000	31-Jan-2008	31-Mar-2010	2.16	\$541	n/a	\$541

**Notes for DELAYED costs**  
 Estimated cost to clean and replace tubing in the auto-sampler and clean the chlorine contact chamber to correct TSS exceedances (\$100) and to evaluate the Facility and make necessary adjustments to correct effluent violations for E. coli (\$5,000). Date required is the initial 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)**

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	\$5,100	<b>TOTAL</b>	\$541
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**EFFLUENT VIOLATION TABLE****Kleinwood Joint Powers Board****TPDES Permit No. WQ0011409001****Docket No. 2009-0783-MWD-E**

	<b>E. coli Daily Max. Conc.</b>	<b>Total Residual Chlorine Max.</b>	<b>TSS Daily Max. Conc.</b>
<b>Months</b>	Limit = 394 CFU/100 mL	Limit = 0.099 mg/L	Limit = 40 mg/L
<b>1/31/2008</b>	<b>c</b>	<b>c</b>	<b>43.6</b>
<b>10/31/2008</b>	<b>450.0</b>	<b>c</b>	<b>c</b>
<b>11/30/2008</b>	<b>718.0</b>	<b>0.19</b>	<b>c</b>
<b>12/31/2008</b>	<b>c</b>	<b>0.18</b>	<b>c</b>

E. coli = Escherichia coli

TSS = total suspended solids

Conc. = concentration

CFU = colony forming units

mg/L = milligrams per liter

Max. = maximum

c = compliant

mL = milliliter



# Compliance History Report

Customer/Respondent/Owner-Operator: CN601229404 Kleinwood Joint Powers Board Classification: AVERAGE Rating: 1.17  
Regulated Entity: RN102328580 KLEINWOOD CENTRAL Classification: AVERAGE Site Rating: 0.35  
ID Number(s): WASTEWATER PERMIT WQ0011409001  
WASTEWATER PERMIT TPDES0046817  
WASTEWATER LICENSING LICENSE WQ0011409001  
Location: Located at 15903 Squyres Road, approximately 5,000 feet upstream from the crossing of Stuebner-Airline Road and Cypress Creek on the north bank of Cypress Creek, Harris County  
TCEQ Region: REGION 12 - HOUSTON  
Date Compliance History Prepared: August 12, 2009  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: May 12, 2004 to May 12, 2009  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Jennifer Graves Phone: 956-430-6023

## 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.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CEDS Inv. Track. No.)
- |    |            |          |
|----|------------|----------|
| 1  | 05/24/2004 | (305135) |
| 2  | 06/28/2004 | (305138) |
| 3  | 07/07/2004 | (332906) |
| 4  | 07/19/2004 | (305133) |
| 5  | 08/27/2004 | (356056) |
| 6  | 09/24/2004 | (356057) |
| 7  | 10/04/2004 | (356058) |
| 8  | 11/17/2004 | (356059) |
| 9  | 12/29/2004 | (371005) |
| 10 | 01/07/2005 | (384065) |
| 11 | 01/10/2005 | (384064) |
| 12 | 02/28/2005 | (384061) |
| 13 | 03/21/2005 | (384062) |
| 14 | 03/23/2005 | (384063) |
| 15 | 04/11/2005 | (376569) |

16 06/10/2005 (421982)  
 17 06/24/2005 (421983)  
 18 07/25/2005 (442867)  
  
 19 08/24/2005 (442868)  
 20 09/20/2005 (442869)  
 21 10/25/2005 (472329)  
 22 11/21/2005 (472330)  
 23 12/27/2005 (472331)  
 24 01/03/2006 (472332)  
 25 02/27/2006 (472325)  
 26 03/20/2006 (472327)  
 27 03/20/2006 (472328)  
 28 03/20/2006 (472333)  
 29 03/22/2006 (472326)  
 30 05/16/2006 (500701)  
 31 05/16/2006 (500703)  
 32 06/12/2006 (500702)  
 33 06/13/2006 (464005)  
 34 08/14/2006 (522834)  
 35 09/18/2006 (522835)  
 36 11/10/2006 (547598)  
 37 12/12/2006 (547599)  
 38 02/12/2007 (547597)  
 39 03/13/2007 (580329)  
 40 04/11/2007 (580330)  
 41 04/17/2007 (580335)  
 42 05/16/2007 (580331)  
 43 06/11/2007 (580332)  
 44 06/20/2007 (593256)  
 45 07/13/2007 (580333)  
 46 08/08/2007 (580334)  
 47 09/04/2007 (603084)  
 48 09/14/2007 (603083)  
 49 11/13/2007 (621538)  
 50 11/13/2007 (621539)  
 51 12/15/2007 (621540)  
 52 02/19/2008 (673500)  
 53 03/14/2008 (673501)  
 54 05/14/2008 (691746)  
 55 05/16/2008 (691749)  
 56 05/28/2008 (691750)  
 57 06/16/2008 (691747)  
 58 07/15/2008 (691748)  
 59 08/18/2008 (712706)  
 60 09/20/2008 (712707)  
 61 11/21/2008 (728921)  
 62 11/21/2008 (728922)  
 63 12/23/2008 (728923)  
 64 02/20/2009 (752058)  
 65 04/20/2009 (752059)  
 66 05/07/2009 (739753)

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

Date: 07/07/2004 (332906)  
 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 VIOS FOR MONIT PER OR PIPE

Date: 12/29/2004 (371005)  
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 VIOS FOR MONIT PER OR PIPE

Date: 05/31/2005 (421983)  
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: 01/31/2006 (472325)  
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: 12/31/2006 (472333)  
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: 06/20/2007 (593256)  
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 VIOS FOR MONIT PER OR PIPE

Date: 01/31/2008 (673500)  
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 (728922)  
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: 11/30/2008 (728923)  
Self Report? YES Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)  
Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2008 (691750)  
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



<b>IN THE MATTER OF AN</b>	<b>§</b>	<b>BEFORE THE</b>
<b>ENFORCEMENT ACTION</b>	<b>§</b>	
<b>CONCERNING</b>	<b>§</b>	<b>TEXAS COMMISSION ON</b>
<b>KLEINWOOD JOINT POWERS BOARD</b>	<b>§</b>	
<b>RN102328580</b>	<b>§</b>	<b>ENVIRONMENTAL QUALITY</b>

## **AGREED ORDER DOCKET NO. 2009-0783-MWD-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the Kleinwood Joint Powers Board ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent 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 Respondent 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 Respondent.

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

### **I. FINDINGS OF FACT**

1. The Respondent owns and operates a wastewater treatment plant located at 15903 Squyres Road, approximately 5,000 feet upstream from the crossing of Stuebner-Airline Road and Cypress Creek on the north bank of Cypress Creek in Harris County, Texas (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review on March 24, 2009, TCEQ staff documented that test results taken November 18, 2008 show that the Facility did not meet the quarterly sampling for No Observed Effect Concentration effluent limitation for Ceriodaphnia dubia survival of not less than 48%.
4. During a record review on March 24, 2009, TCEQ staff documented the following from the self-reported monthly discharge monitoring reports (“DMR”):

<b>EFFLUENT VIOLATION TABLE</b>			
	E. coli Daily Max. Conc.	Total Residual Chlorine Max.	TSS Daily Max. Conc.
Months	Limit = 394 CFU/100 mL	Limit = 0.099 mg/L	Limit = 40 mg/L
1/31/2008	c	c	43.6
10/31/2008	450.0	c	c
11/30/2008	718.0	0.19	c
12/31/2008	c	0.18	c
E. coli = Escherichia coli		mg/L = milligrams per liter	
TSS = total suspended solids		Max. = maximum	
Conc. = concentration		c = compliant	
CFU = colony forming units		mL = milliliter	

5. The Respondent received notice of the violations on May 7, 2009.
6. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
  - a. On February 18, 2008, cleaned and replaced tubing in the auto-sampler and cleaned the chlorine contact chamber to reduce the TSS concentrations;
  - b. On December 4, 2008, repaired the vacuum leak on the sulfur dioxide line;
  - c. On January 2, 2009, overhauled the chlorination system for disinfection purposes; and
  - d. By January 6, 2009, conducted Whole Effluent Toxicity (“WET”) testing, which met the criteria for Ceriodaphnia dubia, 7-day chronic toxicity test.

## II. CONCLUSIONS OF LAW

1. The Respondent 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 Respondent failed to meet the permitted effluent limitations for Ceriodaphnia dubia, 7-day chronic toxicity test, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011409001, Effluent Limitations and Monitoring Requirements WET limit.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to comply with the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0011409001, Effluent Limitations and Monitoring Requirements Nos. 1 and 2.
4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent 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.
5. An administrative penalty in the amount of Eighteen Thousand Six Hundred Fifty Dollars (\$18,650) 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. Eighteen Thousand Six Hundred Fifty Dollars (\$18,650) of the administrative penalty shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

## III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Eighteen Thousand Six Hundred Fifty Dollars (\$18,650) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent'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: Kleinwood Joint Powers Board, Docket No. 2009-0783-MWD-E" to:

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

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 5 above, Eighteen Thousand Six Hundred Fifty Dollars (\$18,650) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0011409001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

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

The certification shall be submitted to:

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

with a copy to:

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

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. 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 Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
8. 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.
9. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
10. 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.
11. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

**SIGNATURE PAGE**

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
\_\_\_\_\_  
For the Executive Director

12/8/2009  
\_\_\_\_\_  
Date

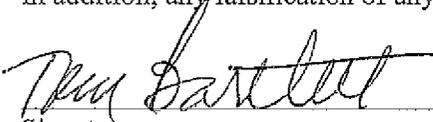
I, the undersigned, have read and understand the attached Agreed Order in the matter of Kleinwood Joint Powers Board. I am authorized to agree to the attached Agreed Order on behalf of Kleinwood Joint Powers Board, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ,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

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

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

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

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

  
\_\_\_\_\_  
Signature

Sept 2, 2009  
\_\_\_\_\_  
Date

Tom Bartlett  
\_\_\_\_\_  
Name (Printed or typed)  
Authorized Representative of  
Kleinwood Joint Powers Board

President  
\_\_\_\_\_  
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: 2009-0783-MWD-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>Kleinwood Joint Powers Board</b>
<b>Penalty Amount:</b>	<b>Eighteen Thousand Six Hundred Fifty Dollars (\$18,650)</b>
<b>SEP Offset Amount:</b>	<b>Eighteen Thousand Six Hundred Fifty Dollars (\$18,650)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Gulf Coast Waste Disposal Authority - River, Lakes, Bays, and Bayous Trash Bash</b>
<b>Location of SEP:</b>	<b>Harris County</b>

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 Offset 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 Offset Amount to the Third-Party Recipient named above. Trash Bash is an annual event that entails the use of volunteers to clean up trash and pollutants from Galveston Bay and waterways in the San Jacinto watershed. The project has resulted in the removal of an average of 141.7 tons of trash and 729 abandoned tires annually from these waterways. SEP monies will be used to pay for materials, supplies, disposal cost and transportation cost directly associated with the clean up of trash and pollutants from the Galveston Bay and waterways in the San Jacinto watershed.

The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

The Project will provide a discernible environmental benefit by removing pollutants from the Galveston Bay and waterways in the San Jacinto watershed, which will improve water quality. The project will also help educate volunteers about non-point source pollution and what the volunteers can do to help keep the environment clean.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset 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 Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Gulf Coast Waste Disposal Authority  
Rivers, Lakes, Bays, and Bayous Trash Bash  
Attention: Lori Gernhardt  
910 Bay Area Boulevard  
Houston, TX 77052

**3. Records and Reporting**

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset 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 expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

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

**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 a SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

