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EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-0873-MWD-E **TCEQ ID:** RN102177961 **CASE NO.:** 39767
RESPONDENT NAME: Texas Department of Transportation

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: Orange Comfort Station, located approximately 3,000 feet east of Cow Bayou, on the south side of Interstate Highway 10 between the cities of Vidor and Orange, Orange County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</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 October 18, 2010. 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: Ms. Martha Hott, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2587; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Toribio Garza, Jr., Director of Maintenance Division, Texas Department of Transportation, 125 East 11th Street, Austin, Texas 78701 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: March 30, 2010 and May 28, 2010</p> <p>Date of NOV/NOE Relating to this Case: May 7, 2010 (NOE)</p> <p>Background Facts: These were records reviews.</p> <p>WATER</p> <p>1) Failed to comply with permitted effluent limitations for chlorine, pH, and total suspended solids [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0011457001 Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 3].</p> <p>2) Failed to submit results at the intervals specified in the permit. Specifically, the Respondent failed to include the data for concentration of Polychlorinated Biphenyls annual maximum in sludge and Toxicity Characteristic Leaching Procedure pass or fail on the Annual Sludge Report for the monitoring period ending July 31, 2009 [30 TEX. ADMIN. CODE § 305.125(1) and 305.125(17) and TPDES Permit No. WQ0011457001, Sludge Provisions, Section II. F. Nos. 3 and 5].</p> <p>3) Failed to pay the fiscal year 2010 Consolidated Water Quality assessment fee for Account Nos. 23005960, 23006010, 23006055, and 23003176 by November 30, 2009 [TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 21.4(e)].</p>	<p>Total Assessed: \$3,060</p> <p>Total Deferred: \$612 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$2,448</p> <p>Total Paid to General Revenue: \$0</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. By February 2010, cleared a partial stoppage in a holding tank, repaired the blower motor at the Facility, and began adding lime to the influent;</p> <p>b. By March 31, 2010, returned to compliance with the permitted effluent limitations of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011457001; and</p> <p>c. On May 18, 2010, submitted a revised sludge report which included the missing data.</p> <p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to:</p> <p>Within 30 days after the effective date of this Agreed Order, submit payment for the fiscal year 2010 Consolidated Water Quality assessment fee for Account Nos. 23005960, 23006010, 23006055, and 23003176, including any associated late fees.</p>

Additional ID No(s): WQ0011457001 / TX0075558

Attachment A
Docket Number: 2010-0873-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Texas Department of Transportation

Payable Penalty Amount: Two Thousand Four Hundred Forty-Eight Dollars (\$2,448)

SEP Amount: Two Thousand Four Hundred Forty-Eight Dollars (\$2,448)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Unauthorized Trash Dump Clean-Up

Location of SEP: Orange County

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

1. Project Description

A. Project

The Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of Resource Conservation and Development Areas, Inc. to be used for the RC&D Unauthorized Trash Dump Clean-Up Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to coordinate with city and/or county governmental officials regarding the clean up of sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party can not be identified and where there is no pre-existing obligation to clean up the site by the owner or the government. Additionally, reasonable efforts must have already been taken to prevent the dumping. SEP monies will be used to pay for the direct cost of collection and disposal of debris. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

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 helping rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.

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:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

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

The Respondent shall also mail a copy of the check to the Enforcement Division 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

ICEQ

DATES	Assigned	10-May-2010	Screening	25-May-2010	EPA Due	
	PCW	27-May-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	Texas Department of Transportation
Reg. Ent. Ref. No.	RN102177961
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	39767	No. of Violations	3
Docket No.	2010-0873-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Marty Hott
		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* **\$2,100**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **70.0%** Enhancement *Subtotals 2, 3, & 7* **\$1,470**

Notes: An enhancement is recommended due to 13 monthly self-reported effluent violations and one NOV with violations same or similar to those cited in this case.

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* **\$510**

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

Total EB Amounts **\$500**
 Approx. Cost of Compliance **\$10,010**
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$3,060**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$3,060**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$3,060**

DEFERRAL **20.0%** Reduction *Adjustment* **-\$612**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$2,448**

Screening Date: 25-May-2010

Docket No.: 2010-0873-MWD-E

PCW

Respondent: Texas Department of Transportation

Policy Revision 2 (September 2002)

Case ID No.: 39767

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN102177961

Media [Statute]: Water Quality

Enf. Coordinator: Marty Holt

Compliance History Worksheet

>> Compliance History Site: Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	14	70%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

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) 70%

>> 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

An enhancement is recommended due to 13 monthly self-reported effluent violations and one NOV with violations same or similar to those cited in this case.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 70%

Screening Date: 25-May-2010

Docket No.: 2010-0873-MWD-E

PCW

Respondent: Texas Department of Transportation

Policy Revision 2 (September 2002)

Case ID No.: 39767

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN102177961

Media [Statute]: Water Quality

Enf. Coordinator: Marty Hott

Violation Number: 1

Rule Cite(s): Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011457001 Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 3

Violation Description: Failed to comply with permitted effluent limitations, as documented during a record review conducted on March 30, 2010 and shown in the attached table.

Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent: 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent: 0%

Matrix Notes

Total suspended solids, chlorine residual, and pH were evaluated to determine whether the discharged amounts of pollutants exceeded levels protective of human health and the environment. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment: \$9,000

\$1,000

Violation Events

Number of Violation Events: 2

124 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty: \$2,000

Two quarterly events are recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$500

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

Notes: The Respondent returned to compliance by March 31, 2010.

Violation Subtotal: \$1,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$500

Violation Final Penalty Total: \$2,900

This violation Final Assessed Penalty (adjusted for limits): \$2,900

Economic Benefit Worksheet

Respondent: Texas Department of Transportation

Case ID No.: 39767

Reg. Ent. Reference No.: RN102177961

Media: Water Quality

Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	31-Mar-2009	31-Mar-2010	1.00	\$500	n/a	\$500

Notes for DELAYED costs

Estimated cost to evaluate the Facility to determine the cause of the effluent violations and complete corrective actions including clearing a partial stoppage in a holding tank at the Facility, repairing a blower, and adding lime to the influent. Date required is the first month of noncompliance. 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

\$10,000

TOTAL

\$500

Screening Date: 25-May-2010

Docket No.: 2010-0873-MWD-E

PCW

Respondent: Texas Department of Transportation

Policy Revision 2 (September 2002)

Case ID No.: 39767

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN102177961

Media [Statute]: Water Quality

Enf. Coordinator: Marty Hott

Violation Number: 2

Rule Cite(s): 30 Tex. Admin. Code § 305.125(1) and 305.125(17) and TPDES Permit No. WQ0011457001, Sludge Provisions, Section II, F. Nos. 3 and 5

Violation Description: Failed to submit results at the intervals specified in the permit, as documented during a record review conducted on March 30, 2010. Specifically, the Respondent failed to include the data for concentration of Polychlorinated Biphenyls annual maximum in sludge and Toxicity Characteristic Leaching Procedure pass or fail on the Annual Sludge Report for the monitoring period ending July 31, 2009.

Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
More than 70% of the permit requirement was met.			X	1%	

Adjustment: \$9,900

\$100

Violation Events

Number of Violation Events: 1 Number of violation days: 258

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	X

Violation Base Penalty: \$100

One single event is recommended.

Good Faith Efforts to Comply

10.0% Reduction \$10

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

Notes: The Respondent submitted a revised sludge report on May 18, 2010 which included the missing data.

Violation Subtotal: \$90

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$0

Violation Final Penalty Total: \$160

This violation Final Assessed Penalty (adjusted for limits): \$160

Economic Benefit Worksheet

Respondent Texas Department of Transportation

Case ID No. 39767

Reg. Ent. Reference No. RN102177961

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	One-time Costs	EB Amount
No commas or \$							

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	One-time 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				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$10	1-Sep-2009	18-May-2010	0.71	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to submit a revised sludge report to the TCEQ. Date required is the date the DMR data was due.
Final date is the date a revised DMR was submitted.

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	One-time 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

\$10

TOTAL

\$0

Screening Date 25-May-2010	Docket No: 2010-0873-MWD-E	PCW				
Respondent Texas Department of Transportation	<i>Policy Revision 2 (September 2002)</i>					
Case ID No. 39767	<i>PCW Revision October 30, 2008</i>					
Reg. Ent. Reference No. RN102177961						
Media [Statute] Water Quality						
Enf. Coordinator Marty Hott						
Violation Number 3						
Rule Cite(s)	Tex. Water Code § 5.702 and 30 Tex. Admin. Code § 21.4(e)					
Violation Description	Failed to pay the fiscal year 2010 Consolidated Water Quality assessment fee for Account Nos. 23005960, 23006010, 23006056, and 23003176 by November 30, 2009, as documented during a record review conducted on May 28, 2010.					
Base Penalty		\$10,000				
>> Environmental, Property and Human Health Matrix						
OR	Harm					
	Release	Major	Moderate	Minor		
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>		
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>		
				Percent <input type="text" value="0%"/>		
>> Programmatic Matrix						
			Falsification	Major	Moderate	Minor
			<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
			Percent <input type="text" value="0%"/>			
Matrix Notes			<input type="text"/>			
			Adjustment		\$10,000	
					\$0	
Violation Events						
		Number of Violation Events <input type="text"/>		Number of violation days <input type="text"/>		
<i>mark only one with an x</i>		daily	<input type="text"/>		Violation Base Penalty <input type="text" value="\$0"/>	
		weekly	<input type="text"/>			
		monthly	<input type="text"/>			
		quarterly	<input type="text"/>			
		semiannual	<input type="text"/>			
		annual	<input type="text"/>			
single event	<input type="text"/>					
No penalty is recommended because penalty and interest will be assessed at the next billing.						
Good Faith Efforts to Comply			0.0% Reduction		\$0	
			Before NOV		NOW to EDPRP/Settlement Offer	
Extraordinary			<input type="text"/>		<input type="text"/>	
Ordinary			<input type="text"/>		<input type="text"/>	
N/A			<input type="text"/>		<input type="text"/>	
			(mark with x)			
Notes			<input type="text"/>			
			Violation Subtotal		\$0	
Economic Benefit (EB) for this violation			Statutory Limit Test			
Estimated EB Amount <input type="text" value="\$0"/>			Violation Final Penalty Total		\$0	
			This violation Final Assessed Penalty (adjusted for limits)		\$0	

Economic Benefit Worksheet

Respondent: Texas Department of Transportation

Case ID No.: 39767

Reg. Ent. Reference No.: RN102177961

Media: Water Quality

Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

Item Cost Date Required Final Date Yrs Interest Saved Onetime Costs EB Amount

Item Description: No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				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

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 \$0

TOTAL \$0

Texas Department of Transportation
 TPDES Permit No. WQ0011457001
 Docket No. 2010-0873-MWD-E
 Case No. 39767

EFFLUENT VIOLATION TABLE				
Months	Chlorine Residual Monthly Max. Conc.	pH Minimum	TSS Daily Ave. Conc.	TSS Single Grab
	Limit = 4.0 mg/L	Limit = 6.0	Limit = 20 mg/L	Limit = 65 mg/L
3/31/2009	c	c	53	154
5/31/2009	5.49	4.61	c	c
12/31/2009	c	c	30	c
1/31/2010	c	c	28	c

ave. = average

max. = maximum

mg/L = milligrams per Liter

conc. = concentration

TSS = total suspended solids

c = compliant

Compliance History Report

Customer/Respondent/Owner-Operator: CN600803456 Texas Department of Transportation Classification: AVERAGE Rating: 3.14
Regulated Entity: RN102177961 ORANGE COMFORT STATION Classification: AVERAGE Site Rating: 1.15
ID Number(s): WASTEWATER PERMIT WQ0011457001
WASTEWATER PERMIT TPDES0075558
WASTEWATER PERMIT TX0075558
WASTEWATER LICENSING LICENSE WQ0011457001
Location: LOCATED APPROXIMATELY 3,000 FEET EAST OF COW BAYOU, ON THE SOUTH SIDE OF INTERSTATE HIGHWAY 10 BETWEEN THE CITIES OF VIDOR AND ORANGE, ORANGE COUNTY, TEXAS
TCEQ Region: REGION 10 - BEAUMONT
Date Compliance History Prepared: June 21, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: June 21, 2005 to June 21, 2010

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

Name: Marty Hott Phone: 512-239-2587

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: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	07/18/2005	(444774)
2	08/19/2005	(444775)
3	09/01/2005	(395608)
4	09/19/2005	(444776)
5	10/15/2005	(475617)
6	11/21/2005	(475618)
7	11/21/2005	(475619)
8	12/08/2005	(439423)
9	12/15/2005	(475620)
10	01/17/2006	(475621)
11	02/21/2006	(475615)
12	03/20/2006	(475616)
13	04/20/2006	(503009)
14	06/05/2006	(503010)
15	06/22/2006	(503011)
16	07/28/2006	(525344)

17	08/22/2006	{525345}
18	09/20/2006	{525346}
19	11/27/2006	{550067}
20	12/21/2006	{550068}
21	01/16/2007	{550069}
22	02/21/2007	{584998}
23	03/22/2007	{584999}
24	04/23/2007	{585000}
25	05/24/2007	{585001}
26	06/20/2007	{585002}
27	07/28/2007	{604420}
28	08/27/2007	{604421}
29	09/24/2007	{604422}
30	10/22/2007	{623462}
31	11/20/2007	{623463}
32	12/27/2007	{623464}
33	01/21/2008	{674777}
34	02/19/2008	{674775}
35	03/20/2008	{674776}
36	04/24/2008	{693102}
37	05/22/2008	{693103}
38	06/23/2008	{714335}
39	07/21/2008	{714336}
40	08/22/2008	{714337}
41	08/31/2008	{730314}
42	10/02/2008	{730315}
43	10/23/2008	{714338}
44	11/19/2008	{730316}
45	12/12/2008	{730317}
46	01/14/2009	{730318}
47	02/13/2009	{753523}
48	03/13/2009	{753524}
49	04/13/2009	{753525}
50	05/14/2009	{770991}
51	06/11/2009	{770992}
52	07/15/2009	{812825}
53	08/19/2009	{812826}
54	09/17/2009	{812827}
55	10/14/2009	{812828}
56	11/10/2009	{778901}
57	11/16/2009	{812829}
58	12/14/2009	{812830}
59	01/14/2010	{812831}
60	01/26/2010	{785926}
61	02/15/2010	{812824}
62	05/07/2010	{797697}

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

Date:	12/31/2005	{475621}	CN600803456
Self	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	{475615}	CN600803456
Self	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	{604420}	CN600803456

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	08/31/2007 (604422)	CN600803456	
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	12/31/2007 (674777)	CN600803456	
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	01/31/2008 (674775)	CN600803456	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	02/29/2008 (674776)	CN600803456	
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	08/31/2008 (730315)	CN600803456	
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	03/31/2009 (753525)	CN600803456	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	05/31/2009 (770992)	CN600803456	
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	07/07/2009 (749199)	CN600803456	
Self Report?	NO	Classification:	Minor
Citation:	OpR PERMIT		
Description:	Failure by the Texas Department of Transportation (TXDOT) to have the reduced pressure backflow prevention device tested annually.		
Self Report?	NO	Classification:	Minor
Citation:	SP PERMIT		
Description:	Failure by the Texas Department of Transportation (TXDOT) to submit the Annual Sludge Reports.		
Self Report?	NO	Classification:	Minor
Citation:	PC PERMIT		
Description:	Failure by the Texas Department of Transportation (TXDOT) to maintain complete sludge disposal records.		
Self Report?	NO	Classification:	Moderate
Citation:	PC PERMIT		
Description:	Failure by the Texas Department of Transportation (TXDOT) to prevent an unauthorized discharge to or adjacent to waters of the State.		
Self Report?	NO	Classification:	Moderate
Citation:	MRR PERMIT		
Description:	Failure by the Texas Department of Transportation (TXDOT) to notify the TCEQ Beaumont Office of an unauthorized discharge.		
Self Report?	NO	Classification:	Moderate

Citation: OpR PERMIT
 Description: Failure by the Texas Department of Transportation (TXDOT) to properly operate and maintain treatment units.
 Self Report? NO Classification: Minor
 Citation: OpR PERMIT
 Description: Failure by the Texas Department of Transportation (TXDOT) to maintain the perimeter fence.
 Self Report? NO Classification: Minor
 Citation: ELMR PERMIT
 Description: Failure by the Texas Department of Transportation (TXDOT) to discharge effluent compliant with permit limitations.
 Self Report? NO Classification: Moderate
 Citation: ELMR PERMIT
 Description: Failure by the Texas Department of Transportation (TXDOT) to collect samples at the required frequency.
 Self Report? NO Classification: Minor
 Citation: PC PERMIT
 Description: Failure by the Texas Department of Transportation (TXDOT) to correctly calculate the effluent loadings.
 Self Report? NO Classification: Moderate
 Citation: MRR PERMIT
 Description: Failure by the Texas Department of Transportation (TXDOT) to submit notification of greater than 40% noncompliances.
 Self Report? NO Classification: Moderate
 Citation: ELMR PERMIT
 Description: Failure by the Texas Department of Transportation (TXDOT) to discharge effluent compliant with the permit.
 Date 12/31/2009 (812831) CN600803456
 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 01/31/2010 (812824) CN600803456
 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 02/28/2010 CN600803456
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TEXAS DEPARTMENT OF
TRANSPORTATION
RN102177961**

§
§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2010-0873-MWD-E**

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Texas Department of Transportation ("the Respondent") under the authority of TEX. WATER CODE chs. 5, 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located approximately 3,000 feet east of Cow Bayou, on the south side of Interstate Highway 10 between the cities of Vidor and Orange in Orange County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 12, 2010.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Three Thousand Sixty Dollars (\$3,060) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Six Hundred Twelve Dollars (\$612) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Two Thousand Four Hundred Forty-Eight Dollars (\$2,448) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. By February 2010, cleared a partial stoppage in a holding tank, repaired the blower motor at the Facility, and began adding lime to the influent;
 - b. By March 31, 2010, returned to compliance with the permitted effluent limitations of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011457001; and
 - c. On May 18, 2010, submitted a revised sludge report which included the missing data.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

- Failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0011457001 Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 3, as documented during a record review conducted on March 30, 2010, and shown in the following table:

EFFLUENT VIOLATION TABLE				
Months	Chlorine Residual Monthly Max. Conc.	pH Minimum	TSS Daily Ave. Conc.	TSS Single Grab
	Limit = 4.0 mg/L	Limit = 6.0	Limit = 20 mg/L	Limit = 65 mg/L
3/31/2009	c	c	53	154
5/31/2009	5.49	4.61	c	c
12/31/2009	c	c	30	c
1/31/2010	c	c	28	c

ave. = average

max. = maximum

mg/L = milligrams per Liter

conc. = concentration

TSS = total suspended solids

c = compliant

- Failed to submit results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and 305.125(17) and TPDES Permit No. WQ0011457001, Sludge Provisions, Section II. F. Nos. 3 and 5, as documented during a record review conducted on March 30, 2010. Specifically, the Respondent failed to include the data for concentration of Polychlorinated Biphenyls annual maximum in sludge and Toxicity Characteristic Leaching Procedure pass or fail on the Annual Sludge Report for the monitoring period ending July 31, 2009.
- Failed to pay the fiscal year 2010 Consolidated Water Quality assessment fee for Account Nos. 23005960, 23006010, 23006055, and 23003176 by November 30, 2009, in violation of TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 21.4(e), as documented during a record review conducted on May 28, 2010.

III. DENIALS

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

IV. ORDERING PROVISIONS

- It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Texas Department of Transportation, Docket No. 2010-0873-MWD-E" to:

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

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Two Thousand Four Hundred Forty-Eight Dollars (\$2,448) 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 30 days after the effective date of this Agreed Order, submit payment for the fiscal year 2010 Consolidated Water Quality assessment fee for Account Nos. 23005960, 23006010, 23006055, and 23003176, including any associated late fees, with the notation, "Texas Department of Transportation" to the address referenced in Section IV, Paragraph 1 above.
4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed

Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.

9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

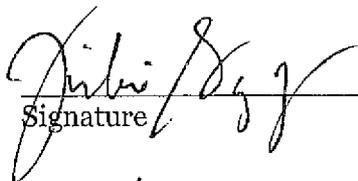
Date 10/11/2010

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

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

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

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



Signature

Date 8/17/10

Toribio Garza, Jr.
Name (Printed or typed)
Authorized Representative of
Texas Department of Transportation

Maintenance Division Director
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: 2010-0873-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Texas Department of Transportation

Payable Penalty Amount: Two Thousand Four Hundred Forty-Eight Dollars (\$2,448)

SEP Amount: Two Thousand Four Hundred Forty-Eight Dollars (\$2,448)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Unauthorized Trash Dump Clean-Up

Location of SEP: Orange County

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

1. Project Description

A. Project

The Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of Resource Conservation and Development Areas, Inc. to be used for the RC&D Unauthorized Trash Dump Clean-Up Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to coordinate with city and/or county governmental officials regarding the clean up of sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party can not be identified and where there is no pre-existing obligation to clean up the site by the owner or the government. Additionally, reasonable efforts must have already been taken to prevent the dumping. SEP monies will be used to pay for the direct cost of collection and disposal of debris. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all federal, state and local environmental laws and regulations.

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 helping rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.

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:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

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

The Respondent shall also mail a copy of the check to the Enforcement Division 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.

