

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2010-0004-MWD-E **TCEQ ID:** RN101916666 **CASE NO.:** 38918
RESPONDENT NAME: City of Shepherd

ORDER TYPE:		
<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	
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: City of Shepherd, located approximately 1,400 feet northeast of the intersection of United States Highway 59 and State Highway 150, San Jacinto County</p> <p>TYPE OF OPERATION: Wastewater treatment system</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on June 14, 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: Mr. Jordan Jones, Enforcement Division, Enforcement Team 3, MC 169, 512-239-2569; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: The Honorable Glenn Dillon, Mayor, City of Shepherd, 11020 Highway 150, Shepherd, Texas 77371 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: October 29, 2009</p> <p>Date of NOV/NOE Relating to this Case: December 18, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with permit effluent limits for total ammonia-nitrogen [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011380001, Effluent Limitations and Monitoring Requirements No. 1].</p> <p>2) Failure to timely submit monitoring results at the intervals specified in the permit [30 TEX. ADMIN. CODE §305.125(17) and TPDES Permit No. WQ0011380001, Sludge Provisions].</p>	<p>Total Assessed: \$2,882</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$2,882</p> <p>Total Paid to General Revenue: \$0</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: The Respondent has three repeated enforcement actions over the prior five year period for the same violation.</p>	<p>Corrective Action Taken:</p> <p>The Executive Director recognizes that the Respondent submitted the annual sludge report on February 15, 2010.</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>a. Within 30 days after the effective date of the Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified annual sludge reports;</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision 2.a.; and</p> <p>c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0011380001 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.</p>

Additional ID No(s): WQ0011380001

Attachment A
Docket Number: 2010-0004-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Shepherd

Payable Penalty Amount: Two Thousand Eight Hundred Eighty-Two Dollars (\$2,882)

SEP Amount: Two Thousand Eight Hundred Eighty-Two Dollars (\$2,882)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Water or Wastewater Treatment Assistance

Location of SEP: San Jacinto 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.

I. Project Description

A. Project

The Respondent shall contribute to 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 Water or Wastewater Treatment Assistance Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

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

The wastewater portion of this SEP will provide a discernible environmental benefit by preventing the release of sewage into the environment. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis. People can be exposed through:

- Sewage in drinking water sources.
- Direct contact in areas of public access such as in lawns or streets, or waters used for recreation.
- Shellfish harvested from areas contaminated by raw sewage.
- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

The drinking water portion of this project will protect water sources for drinking, recreation and wildlife from contamination from the failing treatment systems, and protect public health from contaminated drinking water supplies.

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

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

4. Failure to Fully Perform

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

City of Shepherd
Agreed Order – Attachment A

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

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

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

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	21-Dec-2009	Screening	22-Dec-2009	EPA Due	
	PCW	7-Jan-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Shepherd
Reg. Ent. Ref. No.	RN104916666
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38918	No. of Violations	2
Docket No.	2010-0004-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jordan Jones
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$1,100
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	162.0% Enhancement	Subtotals 2, 3, & 7	\$1,782
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Notes
An enhancement is recommended for 12 self-reported effluent violations, four NOV's with same or similar violations, one NOV with dissimilar violations, and four agreed orders with denial language.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement	Subtotal 6	\$0
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Total EB Amounts \$508
Approx. Cost of Compliance \$10,200
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$2,882
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$2,882

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$2,882
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DEFERRAL	0.0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferrals are recommended for Findings Orders.

PAYABLE PENALTY	\$2,882
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Screening Date 22-Dec-2009

Docket No. 2010-0004-MWD-E

PCW

Respondent City of Shepherd

Policy Revision 2 (September 2002)

Case ID No. 38918

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101916666

Media [Statute] Water Quality

Enf. Coordinator Jordan Jones

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)	16	80%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	4	80%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 162%

>> 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 for 12 self-reported effluent violations, four NOVs with same or similar violations, one NOV with dissimilar violations, and four agreed orders with denial language.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 162%

Screening Date 22-Dec-2009 **Docket No.** 2010-0004-MWD-E **PCW**
Respondent City of Shepherd **Policy Revision 2 (September 2002)**
Case ID No. 38918 **PCW Revision October 30, 2008**
Reg. Ent. Reference No. RN101916866
Media [Statute] Water Quality
Enf. Coordinator Jordan Jones
Violation Number 1
Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0011380001, Effluent Limitations and Monitoring Requirements No. 1
Violation Description Failed to comply with permit effluent limits, as documented in a record review conducted on October 29, 2009. See attached Effluent Limit Violation Table.
Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

Violation Base Penalty \$1,000

One quarterly event is recommended.

Good Faith Efforts to Comply Reduction

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

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

Violation Subtotal \$1,000

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

Estimated EB Amount \$500

Violation Final Penalty Total \$2,620

This violation Final Assessed Penalty (adjusted for limits) \$2,620

Economic Benefit Worksheet

Respondent: City of Shepherd
Case ID No.: 38918
Reg. Ent. Reference No.: RN101918866
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	\$10,000	31-Jul-2009	31-Jul-2010	1.00	\$500	n/a	\$500
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and to make any necessary repairs/adjustments to the Facility. Date required is the initial date of noncompliance. Final date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$500

Screening Date: 22-Dec-2009

Docket No.: 2010-0004-MWD-E

PCW

Respondent: City of Shepherd

Policy Revision 2 (September 2002)

Case ID No.: 38918

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN101916666

Media [Statute]: Water Quality

Enf. Coordinator: Jordan Jones

Violation Number: 2

Rule Cite(s): 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0011980001, Sludge Provisions

Violation Description

Failed to timely submit monitoring results at the intervals specified in the permit, as documented during a record review conducted on October 29, 2009. Specifically, the annual sludge report for the monitoring period ending July 31, 2009 was not submitted timely.

Base Penalty: \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent: 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			X

Percent: 1%

Matrix Notes

70% of the rule requirement was met.

Adjustment: \$9,900

\$100

Violation Events

Number of Violation Events: 1

124 Number of violation days

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty: \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal: \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount: \$6

Violation Final Penalty Total: \$262

This violation Final Assessed Penalty (adjusted for limits): \$262

Economic Benefit Worksheet

Respondent: City of Shepherd
Case ID No.: 38918
Reg. Ent. Reference No.: RN101916666
Media: Water Quality
Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$100	1-Sep-2009	1-Jul-2010	0.83	\$4	n/a	\$4
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	1-Sep-2009	15-Feb-2010	0.46	\$2	n/a	\$2

Notes for DELAYED costs

The estimated cost to conduct employee training and to submit the annual sludge report for the period ending July 31, 2009. Date Required is the date the report was due. Final Date is the date the annual sludge report was submitted and the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$6

Effluent Limit Violation Table

Respondent	City of Shepherd
ID Number(s)	TPDES Permit No. WQ0011380001; Case No. 38918
Docket Number	2010-0004-MWD-E
Enf. Coordinator	Jordan Jones

Corresponds to Violation Number:

1

EFFLUENT PARAMETER
Permit Limit

<i>Month/Year</i>	Total Ammonia-Nitrogen Daily Avg. Conc.	Total Ammonia-Nitrogen Single Grab Conc.	Total Ammonia-Nitrogen Daily Avg. Loading					
	Limit = 3 mg/L	Limit = 15 mg/L	Limit = 10 lb/d					
7/31/2009	4.34	c	c					
9/30/2009	13.1	16.8	17.1					
	avg. = average							
	conc. = concentration							
	mg/L = milligrams per liter							
	MGD = million gallons per day							
	c = compliant							
	lb/d = pound per day							

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600656458	City of Shepherd	Classification: AVERAGE	Rating: 4.75
Regulated Entity:	RN101916666	CITY OF SHEPHERD	Classification: AVERAGE	Site Rating: 4.75
ID Number(s):	WASTEWATER	PERMIT		WQ0011380001
	WASTEWATER	PERMIT		TPDES0054160
	SLUDGE	REGISTRATION		22367
	WASTEWATER LICENSING	LICENSE		WQ0011380001
Location:	Located approximately 1,400 feet northeast of the intersection of United States Highway 59 and State Highway 150 in San Jacinto County, Texas			
TCEQ Region:	REGION 10 - BEAUMONT			
Date Compliance History Prepared:	December 22, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	December 22, 2004 to December 22, 2009			

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

Name: Jordan Jones Phone: 512-239-2569

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.

Effective Date: 10/10/2005	ADMINORDER 2004-0738-MWD-E
Classification: Moderate	
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)	
30 TAC Chapter 305, SubChapter F 305.125(1)	
Rqmt Prov: Effluent Limits PERMIT	
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.	
Effective Date: 09/21/2007	ADMINORDER 2006-1877-MWD-E
Classification: Moderate	
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)	
30 TAC Chapter 305, SubChapter F 305.125(1)	
Rqmt Prov: Effluent Limits PERMIT	
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.	
Effective Date: 04/14/2008	ADMINORDER 2007-1463-MWD-E
Classification: Moderate	
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)	
30 TAC Chapter 305, SubChapter F 305.125(1)	
30 TAC Chapter 305, SubChapter F 305.125(5)	
Rqmt Prov: FEL&MR 4 PERMIT	
Description: Failure to prevent the discharge of floating solids from the Facility. Specifically, grease particulates were observed discharging to the receiving stream.	
Classification: Minor	
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)	
30 TAC Chapter 305, SubChapter F 305.125(5)	
30 TAC Chapter 317 317.3(c)(2)	
Rqmt Prov: OpR, No. 1 PERMIT	
Description: Failure to maintain a firm pumping capacity consisting of at least two operational pumps at the Rolling Hills Lift Station. Specifically, one of the two pumps was missing.	

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.3(e)(4)(C)

Rqmt Prov: OpR, No. 1 PERMIT

Description: Failure to operate and maintain the 59 North lift station. Specifically, two sides of the intruder-resistant fence were not installed, and the site grade was not being maintained to prevent the development of sink holes and uneven ground around the lift station.

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.3(e)(5)

Rqmt Prov: OpR, No. 1 PERMIT

Description: Failure to maintain the high level alarm light at the wastewater treatment plant lift station.

Effective Date: 06/15/2009

ADMINORDER 2009-0017-MWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT

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

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)

Rqmt Prov: Sludge Reporting Requirements PERMIT

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

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

N/A

C. Chronic excessive emissions events.

N/A

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

1	03/10/2005	(384477)
2	03/10/2005	(384479)
3	03/15/2005	(392431)
4	03/22/2005	(384478)
5	04/14/2005	(422420)
6	05/03/2005	(379338)
7	06/01/2005	(422421)
8	06/27/2005	(422423)
9	06/30/2005	(422422)
10	07/27/2005	(443360)
11	08/18/2005	(443361)
12	09/08/2005	(431039)
13	10/19/2005	(473151)
14	10/19/2005	(473152)
15	01/03/2006	(473153)
16	01/23/2006	(473155)
17	01/23/2006	(473156)
18	02/24/2006	(496990)
19	03/01/2006	(473154)
20	03/31/2006	(473148)
21	03/31/2006	(473149)
22	03/31/2006	(473150)
23	07/10/2006	(501363)
24	07/10/2006	(501364)
25	08/10/2006	(523606)
26	08/10/2006	(523607)
27	08/31/2006	(510289)
28	09/27/2006	(548556)
29	10/18/2006	(531017)
30	10/18/2006	(548557)
31	10/20/2006	(513651)
32	12/06/2006	(548558)
33	12/20/2006	(548559)

34 01/10/2007 (548560)
 35 02/12/2007 (581735)
 36 03/21/2007 (581736)
 37 05/02/2007 (581737)
 38 06/11/2007 (581738)
 39 06/28/2007 (581739)
 40 07/23/2007 (581740)
 41 09/18/2007 (603385)
 42 09/18/2007 (603386)
 43 10/19/2007 (598475)
 44 11/07/2007 (621839)
 45 11/28/2007 (609342)
 46 12/21/2007 (621840)
 47 12/21/2007 (621841)
 48 01/28/2008 (673791)
 49 03/05/2008 (673790)
 50 04/07/2008 (692013)
 51 04/22/2008 (692014)
 52 05/23/2008 (680311)
 53 07/18/2008 (686772)
 54 07/29/2008 (692015)
 55 07/29/2008 (692016)
 56 08/05/2008 (713067)
 57 08/11/2008 (687029)
 58 08/27/2008 (713068)
 59 09/29/2008 (713069)
 60 10/17/2008 (729235)
 61 11/21/2008 (729236)
 62 12/15/2008 (706553)
 63 12/19/2008 (729237)
 64 01/13/2009 (752410)
 65 02/11/2009 (752408)
 66 03/12/2009 (752409)
 67 05/14/2009 (770065)
 68 05/15/2009 (770066)
 69 06/29/2009 (760305)
 70 11/13/2009 (781237)
 71 11/30/2009 (780910)
 72 12/18/2009 (780730)

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

Date: 03/15/2005 (392431) CN600656458
 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
 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
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 30 TAC Chapter 305, SubChapter F
 Description: NON-RPT VIOS FOR MONIT PER OR PIPE
 Date: 01/31/2006 (473148) CN600656458
 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: 02/24/2006 (496990) CN600656458
 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: 02/28/2006 (473149) CN600656458
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 03/31/2006 (473150) CN600656458
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 04/30/2006 (501363) CN600656458
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 05/31/2006 (501364) CN600656458
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 06/30/2006 (523606) CN600656458
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 10/18/2006 (531017) CN600656458
 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: 11/28/2007 (609342) CN600656458
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 312, SubChapter G 312.145(b)(2)
 Description: Failure by the registrant to retain copies of trip tickets for five years. Copies of the trip tickets for the years 2004 and 2005 were not available for review. Mr. Rash stated that the missing records were lost/destroyed in a burglary. Mr. Rash produced a police that indicated the burglary occurred on February 19, 2005.

 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 312, SubChapter G 312.145
 Description: During the review of the trip tickets the following was noted:
 A. The Commission Registration number was not included on the trip tickets.
 B. The driver is not recording the date collected in the transporter section of the trip ticket.

 Date: 03/31/2008 (692014) CN600656458
 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: 04/30/2008 (692015) CN600656458
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 05/31/2008 (692016) CN600656458
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2008 (713067) CN600656458
 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: 02/05/2009 (725551) CN600656458
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 PC 2g PERMIT
 Description: Failure by the City of Shepherd to prevent unauthorized discharge as a result of
 inflow/infiltration impact to the wastewater treatment system.
 Self Report? NO Classification: Moderate
 Citation: OpR1 PERMIT
 Description: Failure by the City of Shepherd to properly manage the solids inventory in the
 wastewater treatment system.
 Self Report? NO Classification: Minor
 Citation: OpR 1 PERMIT
 Description: Failure by the City of Shepherd to properly maintain wet well covers on the Tieberry Lift
 Station and the Highway 150 Lift Station.
 Self Report? NO Classification: Minor
 Citation: Opr 1 PERMIT
 Description: Failure by the City of Shepherd to maintain an operable visual high water alarm in the
 effluent lift station.
 Self Report? NO Classification: Minor
 Citation: OpR 1 PERMIT
 Description: Failure by the City of Shepherd to properly maintain the skimmer serving the final
 clarifier.
 Self Report? NO Classification: Minor
 Citation: EL&MR 2 PERMIT
 Description: Failure by the City of Shepherd to discharge effluent in compliance with minimum permit
 limitations for total chlorine residual and for minimum dissolved oxygen concentration.
 Self Report? NO Classification: Moderate
 Citation: M&RR 5 PERMIT
 Description: Failure by the City of Shepherd to properly operate the facility effluent flow
 measurement device.
 Self Report? NO Classification: Moderate
 Citation: M&RR 7 PERMIT
 Description: Failure by the City of Shepherd to provide noncompliance notification of unauthorized
 discharges.
 Self Report? NO Classification: Minor
 Citation: OpR 1 PERMIT
 Description: Failure by the City of Shepherd to properly handle wastewater treatment plant sludge.

Date: 07/31/2009 CN600656458
 Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2009 CN600656458
 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

K. Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF SHEPHERD
RN101916666**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2010-0004-MWD-E**

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

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

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

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

I. FINDINGS OF FACT

1. The City owns and operates a wastewater treatment system located approximately 1,400 feet northeast of the intersection of United States Highway 59 and State Highway 150 in San Jacinto County, Texas (the “Facility”).

2. The City has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review on October 29, 2009, TCEQ staff documented that the City did not comply with the permit effluent limits as depicted in the table below:

EFFLUENT PARAMETER			
Permit Limit			
	Total Ammonia-Nitrogen Daily Avg. Conc.	Total Ammonia-Nitrogen Single Grab Conc.	Total Ammonia-Nitrogen Daily Avg. Loading
Month/Year	Limit = 3 mg/L	Limit = 15 mg/L	Limit = 10 lb/d
7/31/2009	4.34	c	c
9/30/2009	13.1	16.8	17.1
	avg. = average		
	conc. = concentration		
	mg/L = milligrams per liter		
	MGD = million gallons per day		
	c = compliant		
	lb/d = pound per day		

4. During a record review on October 29, 2009, TCEQ staff documented that the City did not timely submit the annual sludge report for the monitoring period ending July 31, 2009.
5. The City received notice of the violations on December 23, 2009.
6. The Executive Director recognizes that the City submitted the annual sludge report on February 15, 2010.

II. CONCLUSIONS OF LAW

1. The City is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the City failed to comply with permit effluent limits, 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. WQ0011380001, Effluent Limitations and Monitoring Requirements No. 1.
3. As evidenced by Findings of Fact No. 4, the City failed to timely submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §305.125(17), and TPDES Permit No. WQ0011380001, Sludge Provisions.

4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Two Thousand Eight Hundred Eighty-Two Dollars (\$2,882) 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. Two Thousand Eight Hundred Eighty-Two Dollars (\$2,882) shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP").

III. ORDERING PROVISIONS

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

1. The City is assessed an administrative penalty in the amount of Two Thousand Eight Hundred Eighty-Two Dollars (\$2,882) 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 City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Shepherd, Docket No. 2010-0004-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The City shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 5 above, the Two Thousand Eight Hundred Eighty-Two Dollar (\$2,882) assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The City shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of the Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified annual sludge reports, in accordance with TPDES Permit No. WQ0011380001, Sludge Provisions;

- b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision 3.a., as described in Ordering Provision 3.c. below; and
- c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ001138001 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 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 fines 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
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

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

occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
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 City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
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

9/22/2010
Date

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

I understand that by entering into this Agreed Order, City of Shepherd 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

9-15-10
Date

Glenn Dillon
Name (Printed or typed)
Authorized Representative of
City of Shepherd

Mayor
Title

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

Attachment A
Docket Number: 2010-0004-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Shepherd
Payable Penalty Amount:	Two Thousand Eight Hundred Eighty-Two Dollars (\$2,882)
SEP Amount:	Two Thousand Eight Hundred Eighty-Two Dollars (\$2,882)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Water or Wastewater Treatment Assistance
Location of SEP:	San Jacinto County

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

1. Project Description

A. Project

The Respondent shall contribute to the 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 Water or Wastewater Treatment Assistance Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

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

The wastewater portion of this SEP will provide a discernible environmental benefit by preventing the release of sewage into the environment. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis. People can be exposed through:

- Sewage in drinking water sources.
- Direct contact in areas of public access such as in lawns or streets, or waters used for recreation.
- Shellfish harvested from areas contaminated by raw sewage.
- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

The drinking water portion of this project will protect water sources for drinking, recreation and wildlife from contamination from the failing treatment systems, and protect public health from contaminated drinking water supplies.

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

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

4. Failure to Fully Perform

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

City of Shepherd
Agreed Order – Attachment A

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

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

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

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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

