

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-0968-MWD-E **TCEQ ID:** RN100217975 **CASE NO.:** 37819

RESPONDENT NAME: City Public Service of San Antonio

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: Calaveras Lake Plant, located adjacent to Calaveras Lake at 9599 Gardner Road and east-southeast of San Antonio, Bexar 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 December 14, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Ms. Carlie Konkol, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-0735; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Michael Kotara, Executive Vice President, City Public Service of San Antonio, P.O. Box 1771, San Antonio, Texas 78296 Mr. Richard M. Pena, Vice President Fossil Generation, City Public Service of San Antonio, P.O. Box 1771, San Antonio, Texas 78296 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: May 7, 2009</p> <p>Date of NOV/NOE Relating to this Case: May 29, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with permitted effluent limitations for total suspended solids [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0001514000, Interim Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$5,350</p> <p>Total Deferred: \$1,070 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$4,280</p> <p>Total Paid (Due) 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 checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</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, 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. WQ0001514000, 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): WQ0001514000 TX0063681

Attachment A
Docket Number: 2009-0968-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City Public Service of San Antonio
Penalty Amount:	Four Thousand Two Hundred Eighty Dollars (\$4,280)
SEP Offset Amount:	Four Thousand Two Hundred Eighty Dollars (\$4,280)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas State University River Systems Institute-<i>Continuous Water Quality Monitoring Network</i>
Location of SEP:	Bexar 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 Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient as set forth in the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used by the Texas State University Continuous Water Quality Monitoring Network to install and/or support a continuous monitoring station that will collect water quality data every fifteen (15) minutes and report data to the TCEQ LEADS system every hour using cellular telemetry. The following water quality parameters will be measured: dissolved oxygen, temperature, specific conductance, pH, turbidity, and water level.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing a "real time" monitoring station that will provide the public and other entities with instantaneous information about rivers in the area. This data will assist in determining baseline conditions, long-term trend monitoring, water quality associated with storm water events, and potentially monitor for accidental spills and releases. This station will provide additional data to support existing work in this area.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Texas State University - San Marcos
Attention: Dr. Glenn Longley, Ph.D., Professor of Aquatic Biology &
Director of Edwards Aquifer Research and Data Center
601 University Drive JCK 420
San Marcos, Texas 78666

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ
DATES

Assigned 8-Jun-2009
PCW 23-Jun-2009 Screening 18-Jun-2009 EPA Due 5-Sep-2009

RESPONDENT/FACILITY INFORMATION

Respondent City Public Service of San Antonio
Reg. Ent. Ref. No. RN100217975
Facility/Site Region 13-San Antonio Major/Minor Source Major

CASE INFORMATION

Enf./Case ID No. 37819 No. of Violations 1
Docket No. 2009-0968-MWD-E Order Type 1660
Media Program(s) Water Quality Government/Non-Profit Yes
Multi-Media Inf. Coordinator Charlie Konkol
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 **\$2,500**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 119.0% Enhancement Subtotals 2, 3, & 7 **\$2,975**

Notes: An enhancement is recommended for having 21 monthly self-reported effluent violations, one Notice of Violation ("NOV") with same or similar violations, five NOV's with unrelated violations to those cited in this action and a reduction for one letter of an intended audit.

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 **\$0**

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

Total EB Amounts \$930
Approx. Cost of Compliance \$10,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal **\$5,475**

OTHER FACTORS AS JUSTICE MAY REQUIRE -2.3% Adjustment **-\$125**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended reduction to prevent the double counting of self-reported violations.

Final Penalty Amount **\$5,350**

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty **\$5,350**

DEFERRAL 20.0% Reduction Adjustment **-\$1,070**

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 **\$4,280**

Screening Date 18-Jun-2009

Docket No. 2009-0968-MWD-E

PCW

Respondent City Public Service of San Antonio

Policy Revision 2 (September 2002)

Case ID No. 37819

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100217975

Media [Statute] Water Quality

Enf. Coordinator Carlie Konkol

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)	22	110%
	Other written NOVs	5	10%
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)	1	-1%
	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) 119%

>> 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 having 21 monthly self-reported effluent violations, one Notice of Violation ("NOV") with same or similar violations, five NOVs with unrelated violations to those cited in this action and a reduction for one letter of an intended audit.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 119%

Screening Date 18-Jun-2009	Docket No. 2009-0968-MWD-E	PCW	
Respondent City Public Service of San Antonio	<small>Policy Revision 2 (September 2002)</small>		
Case ID No. 37819	<small>PCW Revision October 30, 2008</small>		
Reg. Ent. Reference No. RN100217975			
Media [Statute] Water Quality			
Enf. Coordinator Carlie Konkol			
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. WQ0001514000, Interim Effluent Limitations and Monitoring Requirements No. 1		
Violation Description	Failed to comply with permitted effluent limitations, as documented by a record review of self-reported data on May 7, 2009 and shown in the attached table.		
Base Penalty		\$10,000	
>> Environmental, Property and Human Health Matrix			
Harm			
Release	Major	Moderate	Minor
OR			
Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		Percent	25%
>> Programmatic Matrix			
Falsification			
Major			
Moderate			
Minor			
		Percent	0%
Matrix Notes	Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.		
Adjustment		\$7,500	
		\$2,500	
Violation Events			
Number of Violation Events 1		Number of violation days 62	
<small>mark only one with an x</small>	daily	<input type="checkbox"/>	Violation Base Penalty \$2,500
	weekly	<input type="checkbox"/>	
	monthly	<input type="checkbox"/>	
	quarterly	<input checked="" type="checkbox"/>	
	semiannual	<input type="checkbox"/>	
	annual	<input type="checkbox"/>	
	single event	<input type="checkbox"/>	
One quarterly event is recommended for the quarter containing the months December 2008 and January 2009.			
Good Faith Efforts to Comply			\$0
		0.0% Reduction	
		Before NOV	NOV to EDRP/Settlement Offer
Extraordinary	<input type="checkbox"/>		
Ordinary	<input type="checkbox"/>		
N/A	<input checked="" type="checkbox"/>	<small>(mark with x)</small>	
Notes	The Respondent does not meet the good faith criteria for this violation.		
Violation Subtotal		\$2,500	
Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount \$930		Violation Final Penalty Total \$5,350	
		This violation Final Assessed Penalty (adjusted for limits) \$5,350	

Economic Benefit Worksheet

Respondent City Public Service of San Antonio
Case ID No. 37819
Reg. Ent. Reference No. RN100217975
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	\$10,000	1-Dec-2008	31-Mar-2010	1.33	\$44	\$886	\$930
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
 Estimated costs to perform an engineering survey to identify and repair problems related to the treatment system. The Date Required is the first date of noncompliance. The Final Date is the expected date of compliance with permitted effluent limitations.

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 \$930

City Public Service of San Antonio
 Docket No. 2009-0968-MWD-E
 TPDES Permit No. WQ0001514000

EFFLUENT TABLE		
Monitoring Periods	Permit Effluent Limitations – Outfall 101	
	Total Suspended Solids Daily Average Concentration 30 mg/L	Total Suspended Solids Daily Maximum Concentration 100 mg/L
December 2008	49.27	C
January 2009	52.76	104.00

mg/L	Milligrams per Liter
C	Compliant

Compliance History Report

Customer/Respondent/Owner-Operator:	CN603174244	City Public Service Of San Antonio	Classification: AVERAGE	Rating: 0.86
Regulated Entity:	RN100217975	CALAVERAS LAKE PLANT	Classification: AVERAGE	Site Rating: 0.84
ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER		BG0057U
	AIR OPERATING PERMITS	PERMIT		8
	WASTEWATER	PERMIT		WQ0001514000
	WASTEWATER	PERMIT		TPDES0063681
	WASTEWATER	PERMIT		TX0063681
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION		39158
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID		TXD000815019
	INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)		31445
	AIR NEW SOURCE PERMITS	PERMIT		1491
	AIR NEW SOURCE PERMITS	PERMIT		1492
	AIR NEW SOURCE PERMITS	PERMIT		1652
	AIR NEW SOURCE PERMITS	PERMIT		18426
	AIR NEW SOURCE PERMITS	PERMIT		35963
	AIR NEW SOURCE PERMITS	PERMIT		45640
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER		BG0057U
	AIR NEW SOURCE PERMITS	AFS NUM		4802900063
	AIR NEW SOURCE PERMITS	PERMIT		70492
	AIR NEW SOURCE PERMITS	REGISTRATION		73935
	AIR NEW SOURCE PERMITS	PERMIT		73932
	AIR NEW SOURCE PERMITS	REGISTRATION		52617
	AIR NEW SOURCE PERMITS	EPA ID		PSDTX1037
	AIR NEW SOURCE PERMITS	EPA ID		PSDTX742M1
	AIR NEW SOURCE PERMITS	REGISTRATION		51186
	AIR NEW SOURCE PERMITS	REGISTRATION		52616
	AIR NEW SOURCE PERMITS	EPA ID		PAL11
	WASTEWATER LICENSING	LICENSE		WQ0001514000
	IHW CORRECTIVE ACTION	SOLID WASTE REGISTRATION # (SWR)		31445

Location: LOCATED ADJACENT TO CALAVERAS LAKE AT 8599 GARDNER ROAD AND EAST-SOUTHEAST OF THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: June 15, 2009
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: June 15, 2004 to June 15, 2009

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Carlie Konkol Phone: (361) 825-3422

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A

C. Chronic excessive emissions events.

N/A

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

1	06/28/2004	(358017)
2	07/26/2004	(358018)
3	07/26/2004	(358020)
4	09/23/2004	(334817)
5	09/23/2004	(334854)
6	09/24/2004	(335019)
7	09/24/2004	(358019)
8	10/05/2004	(336484)
9	10/07/2004	(336629)
10	10/12/2004	(385101)
11	11/22/2004	(385102)
12	01/25/2005	(385100)
13	01/25/2005	(385103)
14	02/24/2005	(423114)
15	03/28/2005	(385099)
16	04/27/2005	(423115)
17	05/02/2005	(379816)
18	05/19/2005	(423116)
19	05/31/2005	(378471)
20	06/21/2005	(396356)
21	06/21/2005	(396363)
22	06/21/2005	(396377)
23	06/21/2005	(396528)
24	07/22/2005	(443992)
25	08/12/2005	(403286)
26	08/25/2005	(443993)
27	09/18/2005	(431942)
28	09/26/2005	(443994)
29	09/28/2005	(432238)
30	09/28/2005	(432317)
31	09/28/2005	(432854)
32	09/28/2005	(432884)
33	10/05/2005	(433450)
34	10/19/2005	(474252)
35	11/22/2005	(474253)
36	12/20/2005	(449831)
37	01/03/2006	(496897)
38	01/31/2006	(474251)
39	01/31/2006	(474255)
40	02/15/2006	(454920)
41	02/27/2006	(474248)
42	02/27/2006	(474250)
43	03/10/2006	(474254)
44	03/27/2006	(474249)
45	04/21/2006	(502146)
46	05/02/2006	(462672)
47	05/19/2006	(466331)
48	05/22/2006	(467138)
49	06/28/2006	(502147)
50	07/10/2006	(486000)
51	07/26/2006	(524491)
52	07/26/2006	(524493)
53	08/08/2006	(531026)
54	08/11/2006	(489684)
55	08/28/2006	(524489)
56	08/28/2006	(524490)
57	08/28/2006	(524492)
58	09/15/2006	(509306)
59	09/22/2006	(490392)
60	09/22/2006	(512597)
61	09/22/2006	(512836)
62	09/26/2006	(549427)
63	11/10/2006	(512158)
64	11/17/2006	(513168)
65	11/17/2006	(517809)
66	11/29/2006	(519451)

67	12/27/2006	(549428)
68	01/29/2007	(549429)
69	01/30/2007	(535640)
70	02/22/2007	(583224)
71	03/01/2007	(515798)
72	03/01/2007	(535158)
73	03/22/2007	(593292)
74	03/28/2007	(583225)
75	05/14/2007	(559222)
76	05/14/2007	(583226)
77	05/29/2007	(583227)
78	06/19/2007	(563917)
79	06/26/2007	(583228)
80	06/26/2007	(583230)
81	07/27/2007	(593293)
82	07/30/2007	(583229)
83	08/24/2007	(603844)
84	09/12/2007	(574138)
85	10/01/2007	(603845)
86	10/25/2007	(622617)
87	10/29/2007	(598699)
88	11/08/2007	(600693)
89	11/21/2007	(598852)
90	12/03/2007	(609962)
91	12/12/2007	(611580)
92	01/14/2008	(622618)
93	01/24/2008	(615713)
94	01/28/2008	(674176)
95	02/22/2008	(674174)
96	03/06/2008	(619135)
97	03/06/2008	(636356)
98	03/06/2008	(638358)
99	03/26/2008	(674175)
100	04/28/2008	(692488)
101	05/27/2008	(692489)
102	05/28/2008	(640094)
103	06/16/2008	(682274)
104	06/27/2008	(692490)
105	07/21/2008	(713601)
106	08/22/2008	(713602)
107	09/12/2008	(700434)
108	09/12/2008	(702440)
109	09/18/2008	(702901)
110	09/23/2008	(713603)
111	09/30/2008	(703290)
112	09/30/2008	(703482)
113	09/30/2008	(703545)
114	10/20/2008	(729611)
115	11/24/2008	(729612)
116	01/06/2009	(722394)
117	02/26/2009	(735638)
118	03/18/2009	(738350)
119	03/26/2009	(739635)
120	04/07/2009	(740908)
121	04/07/2009	(741698)
122	05/18/2009	(745500)
123	05/18/2009	(745622)
124	05/18/2009	(745743)
125	06/01/2009	(745072)

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

Date:	06/30/2004	(358018)	CN603174244
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		

Date:	08/31/2004	(358019)	CN603174244
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:	11/30/2004	(358020)	CN603174244
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:	06/30/2005	(443982)	CN603174244
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:	07/31/2005	(443993)	CN603174244
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	09/30/2005	(474252)	CN603174244
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	12/31/2005	(474255)	CN603174244
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/03/2006	(496997)	CN603174244
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 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 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 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		

Date:	03/31/2006	(502146)	CN603174244
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	(474250)	CN603174244
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:	05/02/2006	(462672)	CN603174244
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 116, SubChapter B 116.115(c)		
Description:	Region-documented violation of an opacity event (Incident No. 72210) that exceeded the reportable quantity (more than 15 % above the permit limit) for J. T. Deely Unit 2. The incident was the direct result of operator error.		
Date:	05/31/2006	(502147)	CN603174244
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:	07/31/2006	(524490)	CN603174244
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/08/2006	(531026)	CN603174244
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:	11/30/2006	(549428)	CN603174244
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/31/2007	(583224)	CN603174244
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:	02/28/2007	(583225)	CN603174244
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:	03/22/2007	(593292)	CN603174244
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:	04/30/2007	(583227)	CN603174244
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:	05/31/2007	(583228)	CN603174244
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	06/30/2007	(583229)	CN603174244
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:	07/27/2007	(593293)	CN603174244
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) 30 TAC Chapter 305, SubChapter F 305.125(17)		
Description:	NON-RPT VIOS FOR MONIT PER OR PIPE		
Date:	05/30/2008	(640094)	CN603174244
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Effluent Monitoring Requirements PERMIT		
Description:	Failure of the permittee to meet permitted effluent limitations required by the wastewater discharge permit.		
Date:	09/30/2008	(729611)	CN603174244
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	12/31/2008		CN603174244
Self Report?	YES	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) TWC Chapter 26 26.121(a)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/31/2009		CN603174244
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:	02/28/2009		CN603174244
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		

F. Environmental audits.

Notice of Intent Date: 10/28/2004 (347408)
No DOV Associated

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY PUBLIC SERVICE OF SAN
ANTONIO
RN100217975

§
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§

BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-0968-MWD-E

I. JURISDICTION AND STIPULATIONS

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

1. The Respondent owns and operates a wastewater treatment facility located adjacent to Calaveras Lake at 9599 Gardner Road and east-southeast of San Antonio, Bexar 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 June 3, 2009.
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 Five Thousand Three Hundred Fifty Dollars (\$5,350) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Four Thousand Two Hundred Eighty Dollars (\$4,280) of the administrative penalty and One Thousand Seventy Dollars (\$1,070) 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. Four Thousand Two Hundred Eighty Dollars (\$4,280) 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 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.
10. 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.
11. 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), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0001514000, Interim Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on May 7, 2009 and shown in the table below:

EFFLUENT TABLE		
	Permit Effluent Limitations – Outfall 101	
Monitoring Periods	Total Suspended Solids Daily Average Concentration 30 mg/L	Total Suspended Solids Daily Maximum Concentration 100 mg/L
December 2008	49.27	C
January 2009	52.76	104.00

mg/L	Milligrams per Liter
C	Compliant

III. DENIALS

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

IV. ORDERING PROVISIONS

1. 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: City Public Service of San Antonio, Docket No. 2009-0968-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, Four Thousand Two Hundred Eighty Dollars (\$4,280) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0001514000, 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 fine and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

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

John S. Miller
For the Executive Director

11/13/2009
Date

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

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

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

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

Richard M. Peña
Signature

9/30/09
Date

Richard M. Peña
Name (Printed or typed)
Authorized Representative of
City Public Service of San Antonio

Vice President Fossil Generation
Title

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

Attachment A
Docket Number: 2009-0968-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City Public Service of San Antonio
Penalty Amount:	Four Thousand Two Hundred Eighty Dollars (\$4,280)
SEP Offset Amount:	Four Thousand Two Hundred Eighty Dollars (\$4,280)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas State University River Systems Institute-<i>Continuous Water Quality Monitoring Network</i>
Location of SEP:	Bexar 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 Offset Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient as set forth in the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used by the Texas State University Continuous Water Quality Monitoring Network to install and/or support a continuous monitoring station that will collect water quality data every fifteen (15) minutes and report data to the TCEQ LEADS system every hour using cellular telemetry. The following water quality parameters will be measured: dissolved oxygen, temperature, specific conductance, pH, turbidity, and water level.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing a “real time” monitoring station that will provide the public and other entities with instantaneous information about rivers in the area. This data will assist in determining baseline conditions, long-term trend monitoring, water quality associated with storm water events, and potentially monitor for accidental spills and releases. This station will provide additional data to support existing work in this area.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

Texas State University - San Marcos
Attention: Dr. Glenn Longley, Ph.D., Professor of Aquatic Biology &
Director of Edwards Aquifer Research and Data Center
601 University Drive JCK 420
San Marcos, Texas 78666

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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

