

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-1132-MWD-E **TCEQ ID:** RN101613552 **CASE NO.:** 37982
RESPONDENT NAME: City of Brazoria

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 Brazoria WWTP, located approximately 2.25 miles southwest of the City of Brazoria and one mile west of the intersection of Farm-to-Market Road 521 and County Road 797, Brazoria 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 28, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Mr. Jorge Ibarra, P.E., Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5890; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. John Jordan, Public Works Director, City of Brazoria, 201 South Main Street, Brazoria, Texas 77422 The Honorable Ken Corley, Mayor, City of Brazoria, 201 South Main Street, Brazoria, Texas 77422 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: June 12, 2009</p> <p>Date of NOV/NOE Relating to this Case: July 2, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with permit effluent limits for ammonia nitrogen, carbonaceous biochemical oxygen demand, total suspended solids, dissolved oxygen, and flow [Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014581001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and TCEQ Agreed Order Docket No. 2006-0502-MWD-E, Ordering Provision No. 2].</p>	<p>Total Assessed: \$38,420</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$38,420</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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: This case involves a violation of a prior Agreed Order. When the Respondent failed to comply with the prior Agreed Order, the Respondent demonstrated an indifference to legal duty.</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. WQ0014581001, 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): WQ0014581001

Attachment A
Docket Number: 2009-1132-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Brazoria
Payable Penalty Amount:	Thirty-Eight Thousand Four Hundred Twenty Dollars (\$38,420)
SEP Amount:	Thirty-Eight Thousand Four Hundred Twenty Dollars (\$38,420)
Type of SEP:	Pre-approved
Third-Party Recipient:	Brazoria County – Wastewater Assistance For Low-Income Homeowners
Location of SEP:	Brazoria County

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

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Brazoria County shall provide assistance to low-income homeowners to repair or replace failing or inadequately designed On-Site Sewage Facilities (“OSSFs”) within the county. Many of the OSSFs currently in operation in Brazoria County are substandard and result in the release of sewage in residential areas, public rights-of-way, and waterways.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by preventing the continued release of raw sewage into the environment, which will protect ground, surface, and drinking water sources, and wildlife from contamination from sewage.

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:

Robbie Drake, Director
Brazoria County Environmental Health Department
111 East Locust Street, #309
Angleton, Texas 77515

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

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

DATES	Assigned	8-Jul-2009			
	PCW	20-Jul-2009	Screening	18-Jul-2009	EPA Due

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Brazoria
Reg. Ent. Ref. No.	RN101613552
Facility/Site Region	12-Houston
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37982	No. of Violations	2
Docket No.	2009-1132-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jorge Ibarra, P.E.
		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* **\$17,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 241.0% Enhancement *Subtotals 2, 3, & 7* **\$40,970**

Notes: The Respondent was issued two 1660 Agreed Orders, two NOVs with the same/similar type of violations, three NOVs without the same/similar type of violations, and self-reported 37 months of effluent violations.

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

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments *Subtotal 5* **\$0**

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

Total EB Amounts \$10,072
Approx. Cost of Compliance \$40,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 *Final Subtotal* **\$57,970**

OTHER FACTORS AS JUSTICE MAY REQUIRE -33.7% *Adjustment* **-\$19,550**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommend reduction in penalty amount so that monthly self-reported violations do not overly impact the penalty amount.

Final Penalty Amount **\$38,420**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **\$38,420**

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

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$38,420**

Screening Date: 18-Jul-2009

Docket No.: 2009-1132-MWD-E

PCW

Respondent: City of Brazoria

Policy Revision 2 (September 2002)

Case ID No.: 37982

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN101613552

Media [Statute]: Water Quality

Enf. Coordinator: Jorge Ibarra, P.E.

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)	39	195%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	2	40%
	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) 241%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent was issued two 1660 Agreed Orders, two NOVs with the same/similar type of violations, three NOVs without the same/similar type of violations, and self-reported 37 months of effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 241%

Screening Date	18-Jul-2009	Docket No.	2009-1132-MWD-E	PCW
Respondent	City of Brazoria	Policy Revision 2 (September 2002)		
Case ID No.	37982	PCW Revision October 30, 2008		
Reg. Ent. Reference No.	RN101613552			
Media [Statute]	Water Quality			
Enf. Coordinator	Jorge Ibarra, P.E.			

Violation Number	1
Rule Cite(s)	Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014581001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and TCEQ Agreed Order Docket No. 2006-0502-MWD-E, Ordering Provision No. 2
Violation Description	Failed to comply with permit effluent limits. See attached Effluent Limit Violation Table.
Base Penalty	\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent	
	Release	Major	Moderate		Minor
	Actual				X
	Potential				
				10%	

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes
 A simplified model was used to evaluate ammonia nitrogen (NH3-N) and carbonaceous biochemical oxygen demand (5-day) (CBOD5) to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total suspended solids (TSS), dissolved oxygen (DO), and flow values were also considered. 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	12	Number of violation days	1031
mark only one with an x	daily		
	weekly		
	monthly		
	quarterly	X	
	semiannual		
	annual		
	single event		
Violation Base Penalty	\$12,000		

Twelve quarterly events are recommended. The penalty was calculated from the effective date of the Agreed Order, September 21, 2006, to the screening date of July 18, 2009.

Good Faith Efforts to Comply

0.0% Reduction		\$0
	Before NOV	NOV to EDPRP/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	\$12,000	

Economic Benefit (EB) for this violation

Estimated EB Amount	\$10,072	Violation Final Penalty Total	\$27,120
		This violation Final Assessed Penalty (adjusted for limits)	\$27,120

Economic Benefit Worksheet

Respondent: City of Brazoria
Case ID No.: 37982
Reg. Ent. Reference No.: RN101813552
Media: Water Quality
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount	
Equipment	\$30,000	26-Sep-2006	1-May-2010	3.60	\$360	\$7,195	\$7,564
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$10,000	26-Sep-2006	1-May-2010	3.60	\$120	\$2,398	\$2,518
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: Estimated cost to evaluate the Facility, purchase any needed equipment, perform any labor associated with equipment repairs/replacements, and develop and implement procedures to ensure compliance with permit effluent limits. Date Required is the effective date of the Agreed Order, Final Date is the expected compliance date.

Avoided Costs

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

Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0
Personnel				0.00	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0
Supplies/equipment				0.00	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0
Other (as needed)				0.00	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance	\$40,000	TOTAL	\$10,072
----------------------------	----------	--------------	----------

Screening Date	18-Jul-2009	Docket No.	2009-1132-MWD-E	PCW
Respondent	City of Brazoria	Policy Revision 2 (September 2002)		
Case ID No.	37982	PCW Revision October 30, 2008		
Reg. Ent. Reference No.	RN101613552			
Media [Statute]	Water Quality			
Enf. Coordinator	Jorge Ibarra, P.E.			
Violation Number	2			
Rule Cite(s)	TPDES Permit No. WQ0014581001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and TCEQ Agreed Order Docket No. 2008-0502-MWD-E, Ordering Provision No. 2			
Violation Description	Failed to comply with permit effluent limits. See attached Effluent Limit Violation Table.			
Base Penalty				\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm				
	Release	Major	Moderate		Minor
	Actual		x		
	Potential				
				Percent <input type="text" value="25%"/>	

>> Programmatic Matrix

Falsification			
Major	Moderate	Minor	
			Percent <input type="text" value="0%"/>

Matrix Notes
 A simplified model was used to evaluate NH3-N and CBOD5 to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. TSS and DO values were also considered. As a result of these discharges, human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty

Two monthly events are recommended for the months of July and August 2008.

Good Faith Efforts to Comply Reduction

	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

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

Estimated EB Amount **Violation Final Penalty Total**

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent: City of Brazoria
Case ID No.: 37982
Reg. Ent. Reference No.: RN101613552
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				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

See violation No. 1.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$0

TOTAL

\$0

Effluent Limit Violation Table

table rev

City of Brazoria

RN101613552, Case No. 37982

2009-1132-MWD-E

Jorge Ibarra, P.E.

Corresponds to Violation Number

1 & 2

EFFLUENT PARAMETER

Permit Limit

	NH3-N Daily Average Concentration	NH3-N Daily Average Loading	NH3-N Daily Maximum	CBOD5 Daily Average Concentration	TSS Daily Average Concentration	TSS Daily Maximum	DO Minimum	Flow
<i>Month/Year</i>	4 mg/L	25 lbs/day	10 mg/L	10 mg/L	15 mg/L	40 mg/L	4 mg/L	0.75 MGD
Oct-06	c	c	c	c	c	c	c	0.891
Dec-06	c	c	c	c	c	c	c	0.828
Jan-07	c	36	c	c	c	48	c	1.334
Mar-07	c	c	c	c	c	c	c	0.777
Apr-07	c	c	c	c	c	c	c	1.076
May-07	9.42	37.27	29.7	c	c	c	c	c
Jun-07	c	c	c	c	c	c	3.25	c
Jul-07	c	c	c	c	c	c	c	1.188
Aug-07	c	c	c	c	c	c	2.26	0.869
Sep-07	5.38	c	16.5	c	c	c	2.07	c
Oct-07	12.02	28.05	23.8	c	c	c	c	c
Nov-07	7.57	c	14.8	c	c	c	c	c
Jan-08	c	c	c	c	c	c	3.31	0.934
Feb-08	c	c	c	c	c	c	c	0.935
Mar-08	c	c	c	c	c	c	c	0.775
Apr-08	c	c	c	c	c	c	3.52	c
May-08	4.33	c	17.9	c	c	c	2.94	c
Jun-08	34	55.93	43.8	c	c	c	3.7	c
Jul-08	28.9	80.14	36.5	12.6	c	c	2.98	c
Aug-08	20.15	60.64	29.8	12.75	19.25	c	3.17	c
Sep-08	23.5	46.83	34.3	c	c	c	2.87	c
Oct-08	32.24	80.71	40.3	14	c	c	1.88	c
Nov-08	8.62	c	30.1	c	c	c	1.96	c
Dec-08	20.89	40.87	35.3	c	c	c	c	c
Jan-09	4.65	c	12.1	c	c	c	c	c
Feb-09	5.41	c	c	c	c	c	c	c
Mar-09	c	c	c	c	c	c	2.93	c
Apr-09	c	c	c	c	c	c	2.41	c

Name	Abbreviation
milligram per liter	mg/L
pounds per day	lbs/day
total suspended solids	TSS
carboneaceous biochemical oxygen demand (5-day)	CBOD5
ammonia nitrogen	NH3-N
dissolved oxygen	DO
million gallons per day	MGD
compliant	c

Compliance History Report

Customer/Respondent/Owner-Operator: CN600573414 City of Brazoria Classification: AVERAGE Rating: 3.05
Regulated Entity: RN101613552 CITY OF BRAZORIA WWTP Classification: AVERAGE Site Rating: 3.10
ID Number(s): WASTEWATER PERMIT TPDES0025615
WASTEWATER PERMIT WQ0014581001
WASTEWATER PERMIT TX0025615
WASTEWATER LICENSING LICENSE WQ0010133001
Location: Approx. 2.25 miles southwest of the City of Brazoria and one mile west of the intersection of Farm-to-Market Road 521 and County Road 797 in Brazoria County.
TCEQ Region: REGION 12 - HOUSTON
Date Compliance History Prepared: July 09, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: July 09, 2004 to July 09, 2009

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

Name: Jorge Ibarra, P.E. Phone: (817) 588-5890

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

Effective Date: 05/27/2005 ADMINORDER 2004-0504-MWD-E

Classification: Moderate

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

30 TAC Chapter 305, SubChapter F 305.125(4)

30 TAC Chapter 305, SubChapter F 305.125(5)

30 TAC Chapter 305, SubChapter O 305.536(c)

TWC Chapter 26 26.121(a)(1)

Rqmt Prov: Oper. Req. No. 1 PERMIT

Permit Cond. Nos. 2.d. & 2.g. PERMIT

Description: Failure to operate and maintain the wastewater collection system to prevent the unauthorized discharges of untreated wastewater from the collection system and wastewater treatment plant.

Effective Date: 09/21/2006 ADMINORDER 2006-0502-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.

- 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	09/16/2004	(383190)
2	09/16/2004	(383191)
3	09/16/2004	(383192)
4	10/20/2004	(383193)
5	11/19/2004	(383194)
6	12/23/2004	(383195)
7	01/24/2005	(383196)
8	02/14/2005	(383188)
9	03/22/2005	(383189)
10	04/19/2005	(421031)
11	05/15/2005	(470804)
12	05/15/2005	(470805)
13	05/15/2005	(470806)
14	05/15/2005	(470807)
15	05/16/2005	(421032)
16	06/27/2005	(421033)
17	02/10/2006	(470801)
18	02/10/2006	(470802)
19	02/10/2006	(470803)
20	02/13/2006	(470799)
21	03/16/2006	(470800)
22	04/19/2006	(461654)
23	05/22/2006	(499739)
24	05/22/2006	(499740)
25	06/22/2006	(499741)
26	07/27/2006	(521824)
27	08/29/2006	(488138)
28	08/31/2006	(620724)
29	09/14/2006	(521825)
30	11/03/2006	(620726)
31	12/08/2006	(620728)
32	12/18/2006	(620730)
33	12/22/2006	(553688)
34	02/13/2007	(620732)
35	03/12/2007	(620716)
36	03/29/2007	(620717)
37	04/18/2007	(620718)
38	05/18/2007	(620719)
39	07/23/2007	(620721)
40	08/17/2007	(570663)
41	09/19/2007	(620722)
42	09/19/2007	(620723)
43	09/25/2007	(620720)
44	09/28/2007	(620725)
45	11/01/2007	(597718)
46	11/12/2007	(620727)
47	12/17/2007	(620729)
48	12/20/2007	(620731)
49	01/30/2008	(672966)
50	02/26/2008	(672964)
51	03/20/2008	(672965)

52	04/22/2008	(691024)
53	05/15/2008	(691025)
54	06/24/2008	(691026)
55	07/22/2008	(686802)
56	07/22/2008	(711908)
57	10/02/2008	(728323)
58	10/24/2008	(711909)
59	11/25/2008	(728324)
60	12/22/2008	(751369)
61	01/30/2009	(751370)
62	03/03/2009	(751367)
63	03/18/2009	(751368)
64	05/11/2009	(742243)
65	07/02/2009	(749183)

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

Date: 11/30/2004 (383195) CN600573414
 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: 03/31/2005 (421031) CN600573414
 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 (470804) CN600573414
 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: 10/31/2005 (470805) CN600573414
 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: 11/30/2005 (470806) CN600573414
 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 (470807) CN600573414
 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 (499739) CN600573414
 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 (499740) CN600573414
 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 (521825) CN600573414
 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: 08/28/2006 (488138)
 Self Report? NO Classification Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 Description: Failure to operate and maintain the chlorine contact chamber to prevent the accumulation of sludge. There was one foot of sludge in an eight foot water depth in the chlorine contact chamber. In addition, the circular clarifiers had a sludge blanket depth greater than 25% of the water depth.
 Date: 10/31/2006 (620728) CN600573414
 Self Report? YES Classification Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 12/22/2006 (553688)
 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: 12/31/2006 (620732) CN600573414
 Self Report? YES Classification Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 01/31/2007 (620716) CN600573414
 Self Report? YES Classification Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 03/31/2007 (620718) CN600573414
 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: 04/30/2007 (620719) CN600573414
 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: 05/31/2007 (620720) CN600573414
 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: 06/30/2007 (620721) CN600573414
 Self Report? YES Classification Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 07/31/2007 (620722) CN600573414
 Self Report? YES Classification Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 08/16/2007 (570663) CN600573414
 Self Report? NO Classification Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 EL&MR, pg. 2, no. 2 & 6 PERMIT
 Description: Failure to maintain compliance with effluent limits. The dissolved oxygen (D.O.) concentration in the effluent was 3.15 mg/L and the total chlorine residual was 0.3 mg/L, at the time of the inspection. The permit limit for D.O. is 4.0 mg/L and the permit limit for total chlorine residual is at least 1.0 mg/L.
 Date: 08/31/2007 (620725) CN600573414
 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: 09/30/2007 (620727) CN600573414
 Self Report? YES Classification Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 10/31/2007 (620729) CN600573414
 Self Report? YES Classification Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 11/30/2007 (620731) CN600573414
 Self Report? YES Classification Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 01/31/2008 (672964) CN600573414
 Self Report? YES Classification Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 02/29/2008 (672965) CN600573414
 Self Report? YES Classification Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 03/31/2008 (691024) CN600573414
 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 (691025) CN600573414
 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 (691026) CN600573414

Self Report?	YES	Classificatio	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 (711908)	CN600573414	
Self Report?	YES	Classificatio	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	07/18/2008 (686802)	CN600573414	
Self Report?	NO	Classificatio	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1) Effluent Limits PERMIT		
Description:	Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.		
Self Report?	NO	Classificatio	Major
Citation:	2A TWC Chapter 7, SubChapter A 7.051(a)(1)(B) Ordering Provision No. 2 ORDER		
Description:	Failure to comply with Agreed Commission Order Docket No. 2006-0502-MWD-E.		
Date:	07/31/2008 (620723)	CN600573414	
Self Report?	YES	Classificatio	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/31/2008 (728323)	CN600573414	
Self Report?	YES	Classificatio	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:	09/30/2008 (711909)	CN600573414	
Self Report?	YES	Classificatio	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	10/31/2008 (728324)	CN600573414	
Self Report?	YES	Classificatio	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	11/31/2008	CN600573414	
Self Report?	YES	Classificatio	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	12/31/2008	CN600573414	
Self Report?	YES	Classificatio	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	01/31/2009	CN600573414	
Self Report?	YES	Classificatio	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		

Description: Failure to meet the limit for one or more permit parameter
 Date: 02/28/2009 CN600573414
 Self Report? YES Classificatio Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter
 Date: 03/31/2009 CN600573414
 Self Report? YES Classificatio 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: 04/30/2009 CN600573414
 Self Report? YES Classificatio 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: 05/11/2009 (742243) CN600573414
 Self Report? NO Classificatio Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)
 30 TAC Chapter 305, SubChapter F 305.125(11)(C)
 Description: Failure to submit the 2008 Annual Sludge.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF BRAZORIA
RN101613552**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2009-1132-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 Brazoria (“the City”) under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City presented this agreement to the Commission.

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

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

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

I. FINDINGS OF FACT

1. The City owns and operates a wastewater treatment facility located approximately 2.25 miles southwest of the City of Brazoria and one mile west of the intersection of Farm-to-Market Road 521 and County Road 797 in Brazoria 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 June 12, 2009, TCEQ staff documented that the City did not comply with permit effluent limits as depicted in the table below:

EFFLUENT PARAMETER								
	NH3-N Daily Average Concentration	NH3-N Daily Average Loading	NH3-N Daily Maximum	CBOD5 Daily Average Concentration	TSS Daily Average Concentration	TSS Daily Maximum	DO Minimum	Flow
Month/Year	4 mg/L	25 lbs/day	10 mg/L	10 mg/L	15 mg/L	40 mg/L	4 mg/L	0.75 MGD
Oct-06	c	c	c	c	c	c	c	0.891
Dec-06	c	c	c	c	c	c	c	0.828
Jan-07	c	36	c	c	c	48	c	1.334
Mar-07	c	c	c	c	c	c	c	0.777
Apr-07	c	c	c	c	c	c	c	1.076
May-07	9.42	37.27	29.7	c	c	c	c	c
Jun-07	c	c	c	c	c	c	3.25	c
Jul-07	c	c	c	c	c	c	c	1.188
Aug-07	c	c	c	c	c	c	2.26	0.869
Sep-07	5.38	c	16.5	c	c	c	2.07	c
Oct-07	12.02	28.05	23.8	c	c	c	c	c
Nov-07	7.57	c	14.8	c	c	c	c	c
Jan-08	c	c	c	c	c	c	3.31	0.934
Feb-08	c	c	c	c	c	c	c	0.935
Mar-08	c	c	c	c	c	c	c	0.775
Apr-08	c	c	c	c	c	c	3.52	c
May-08	4.33	c	17.9	c	c	c	2.94	c
Jun-08	34	55.93	43.8	c	c	c	3.7	c
Jul-08	28.9	80.14	36.5	12.6	c	c	2.98	c
Aug-08	20.15	60.64	29.8	12.75	19.25	c	3.17	c
Sep-08	23.5	46.83	34.3	c	c	c	2.87	c
Oct-08	32.24	60.71	40.3	14	c	c	1.88	c
Nov-08	8.62	c	30.1	c	c	c	1.96	c
Dec-08	20.89	40.87	35.3	c	c	c	c	c
Jan-09	4.65	c	12.1	c	c	c	c	c
Feb-09	5.41	c	c	c	c	c	c	c
Mar-09	c	c	c	c	c	c	2.93	c
Apr-09	c	c	c	c	c	c	2.41	c

CBOD5 = carbonaceous biochemical oxygen demand (5 day) TSS = total suspended solids DO = dissolved oxygen

NH3-N = ammonia nitrogen mg/L = milligrams per liter lbs/day = pounds per day

MGD = million gallons per day c = compliant

4. The City received notice of the violations on July 7, 2009.

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 Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014581001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and TCEQ Agreed Order Docket No. 2006-0502-MWD-E, Ordering Provision No. 2.
3. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
4. An administrative penalty in the amount of Thirty-Eight Thousand Four Hundred Twenty Dollars (\$38,420) 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. Thirty-Eight Thousand Four Hundred Twenty Dollars (\$38,420) 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 Thirty-Eight Thousand Four Hundred Twenty Dollars (\$38,420) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Brazoria, Docket No. 2009-1132-MWD-E" to:

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

2. The City shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 4 above, Thirty-Eight Thousand Four Hundred Twenty Dollars (\$38,420) of the 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, 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. WQ0014581001, 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
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

4. The provisions of this Agreed Order shall apply to and be binding upon the 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.

City of Brazoria
DOCKET NO. 2009-1132-MWD-E
Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

12/11/2009
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Brazoria. I am authorized to agree to the attached Agreed Order on behalf of the City of Brazoria, 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, the City of Brazoria 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

10-26-09
Date

Ken Corley
Name (Printed or typed)
Authorized Representative of
City of Brazoria

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: 2009-1132-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Brazoria
Payable Penalty Amount:	Thirty-Eight Thousand Four Hundred Twenty Dollars (\$38,420)
SEP Amount:	Thirty-Eight Thousand Four Hundred Twenty Dollars (\$38,420)
Type of SEP:	Pre-approved
Third-Party Recipient:	Brazoria County – Wastewater Assistance For Low-Income Homeowners
Location of SEP:	Brazoria County

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

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Brazoria County shall provide assistance to low-income homeowners to repair or replace failing or inadequately designed On-Site Sewage Facilities (“OSSFs”) within the county. Many of the OSSFs currently in operation in Brazoria County are substandard and result in the release of sewage in residential areas, public rights-of-way, and waterways.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by preventing the continued release of raw sewage into the environment, which will protect ground, surface, and drinking water sources, and wildlife from contamination from sewage.

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:

Robbie Drake, Director
Brazoria County Environmental Health Department
111 East Locust Street, #309
Angleton, Texas 77515

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

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.

