

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1641-MWD-E **TCEQ ID:** RN101612612 **CASE NO.:** 38503

RESPONDENT NAME: City of Maypearl

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 Maypearl Wastewater Treatment Plant, located approximately 0.5 mile south of the intersection of Farm-to-Market Road 66 and Farm-to-Market Road 157, Ellis 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 March 15, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5363; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: The Honorable John Wayne Pruitt, Mayor, City of Maypearl, P.O. Box 400, Maypearl, Texas 76064 Mr. David Bowman, Water Utility Manager, City of Maypearl, P.O. Box 400, Maypearl, Texas 76064 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: July 9, 2009</p> <p>Date of NOV/NOE Relating to this Case: October 2, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with the permitted effluent limitations for ammonia nitrogen, total suspended solids, carbonaceous biochemical oxygen demand, and dissolved oxygen [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010431001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6].</p>	<p>Total Assessed: \$17,730</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$17,730</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: Human health or the environment has been exposed to pollutants which exceed levels that are protective.</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. WQ0010431001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations.</p>

Additional ID No(s): WQ0010431001

Attachment A
Docket Number: 2009-1641-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Maypearl
Penalty Amount: Seventeen Thousand Seven Hundred Thirty Dollars (\$17,730)
SEP Offset Amount: Seventeen Thousand Seven Hundred Thirty Dollars (\$17,730)
Type of SEP: Pre-approved
Third-Party Recipient: Keep Texas Beautiful - Stop Trashing Texas Program
Location of SEP: Ellis County

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

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to Keep Texas Beautiful for the Stop Trashing Texas project as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, SEP funds will pay for the labor and disposal costs associated with cleanup of unauthorized trash dumps by supplying project coordination, labor, supplies, and materials for clean up events statewide. SEP funds used for this purpose shall be limited to the actual direct costs for the specific purpose necessary to meet the requirements of the SEP and no portion of the SEP funds will be spent on administrative costs related to this portion of the SEP. Trash dump cleanups may be coordinated with waste collection facilities and/or local governments to employ heavy machinery for the removal of large waste items. To the maximum extent possible, cleanups shall be accomplished with the use of volunteers from community groups, private companies, schools, and youth organizations. SEP Funds may be used for activities. This project will be administered in accordance with federal, state, and local environmental laws and regulations.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by removing unauthorized trash dumps and providing for the proper disposal of debris and waste, reducing the potential health threats associated with illegally dumped wastes, helping rid communities of hazardous contaminants that may leach into the soil and water.

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:

Keep Texas Beautiful
Attention: Anne Cunic, Affiliate Services Manager
8850 Business Park Dr., Ste. 200
Austin, TX 78759

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:

Litigation Division
Attention: SEP Coordinator, MC 175
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 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 submit a check for any remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the docket number of the case, and shall send it to:

Texas Commission on Environmental Quality
Office of Legal Services
Attention: SEP Coordinator, MC 175
P.O. Box 13088
Austin, Texas 78711-3088

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	5-Oct-2009	Screening	6-Oct-2009	EPA Due	
	PCW	8-Oct-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Maypearl
Reg. Ent. Ref. No.	RN101612612
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38503	No. of Violations	2
Docket No.	2009-1641-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Samuel Short
		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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 115.0% Enhancement Subtotals 2, 3, & 7

Notes: Enhancement recommended for having 19 months of self-reported effluent violations and four NOV's for the same or similar violations within the last five years.

Culpability No 0.0% Enhancement Subtotal 4

Notes: The City does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5

Economic Benefit 0.0% Enhancement* Subtotal 6

Total EB Amounts	\$1,052	*Capped at the Total EB \$ Amount
Approx. Cost of Compliance	\$10,000	

SUM OF SUBTOTALS 1-7 Final Subtotal

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment

Reduces or enhances the Final Subtotal by the Indicated percentage.

Notes: Recommended reduction in the penalty so that monthly self-reported effluent violations do not overly-impact the penalty amount and to prevent double enhancement of the penalty for same violations that were self reported.

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY

Screening Date 6-Oct-2009

Docket No. 2009-1641-MWD-E

PCW

Respondent City of Maypearl

Policy Revision 2 (September 2002)

Case ID No. 38503

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101612612

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

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)	23	115%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<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) 115%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement recommended for having 19 months of self-reported effluent violations and four NOVs for the same or similar violations within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 115%

Screening Date 6-Oct-2009

Docket No. 2009-1641-MWD-E

PCW

Respondent City of Maypearl

Policy Revision 2 (September 2002)

Case ID No. 38503

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101612612

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010431001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6

Violation Description Failed to comply with the permitted effluent limitations, as documented during a record review conducted on July 9, 2009 and shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen ("NH3-H") and carbonaceous biochemical oxygen demand ("CBOD") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Daily average flow, total suspended solids ("TSS") and dissolved oxygen ("DO") values were also considered. As a result of these discharges, human health or the environment has been exposed to an insignificant amount 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 4 Number of violation days 214

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

Violation Base Penalty \$4,000

Four quarterly events are recommended.

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 City does not meet the good faith criteria for this violation.

Violation Subtotal \$4,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,052

Violation Final Penalty Total \$7,880

This violation Final Assessed Penalty (adjusted for limits) \$7,880

Economic Benefit Worksheet

Respondent City of Maypearl
Case ID No. 38503
Reg. Ent. Reference No. RN101612612
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
Delayed Costs							
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	30-May-2008	7-Jul-2010	2.10	\$1,052	n/a	\$1,052

Notes for DELAYED costs: The estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the wastewater treatment system. Date required is the first date of non-compliance. The final date is the expected date of compliance.

Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs:

Approx. Cost of Compliance \$10,000
TOTAL \$1,052

Screening Date 6-Oct-2009

Docket No. 2009-1641-MWD-E

PCW

Respondent City of Maypearl

Policy Revision 2 (September 2002)

Case ID No. 38503

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101612612

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), TPDES Permit No. WQ0010431001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with the permitted effluent limitations for the monitoring period ending October 31, 2008, as documented during a record review conducted on July 9, 2009 and shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	x		
Potential			

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

A simplified model was used to evaluate ammonia nitrogen ("NH3-H") to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Daily average flow and carbonaceous biochemical oxygen demand ("CBOD") values were also considered. As a result of these discharges, human health or the environment has been exposed to a significant amount of pollutants which exceed levels that are protective of human health or environmental receptors.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1

31 Number of violation days

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$5,000

One monthly event is recommended.

Good Faith Efforts to Comply

0.0% Reduction Before NOV NOV to EDRP/ Settlement Offer

\$0

Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$9,850

This violation Final Assessed Penalty (adjusted for limits) \$9,850

Economic Benefit Worksheet

Respondent City of Maypearl
Case ID No. 38503
Reg. Ent. Reference No. RN101612612
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
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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 economic benefit for 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.

Respondent City of Maypearl
ID Number(s) TPDES Permit No. WQ0010431001
Docket Number 2009-1641-MWD-E
Enf. Coordinator Samuel Short

Corresponds to Violation Number: 1 and 2

EFFLUENT PARAMETER
Permit Limit

<i>Month/Year</i>	Ammonia Nitrogen Daily Average Conc.	Ammonia Nitrogen Single Grab max.	Ammonia Nitrogen Daily Average Loading	TSS Daily Average Conc.	TSS Daily Average Loading	CBOD Daily Average Conc.	Dissolved Oxygen Monthly min.						
	3 mg/L	15 mg/L	4.4 lbs/dy	15 mg/L	22 lbs/dy	10 mg/L	4 mg/L						
5/30/2008	7.81	c	6.89	c	c	c	c						
6/30/2008	6.5	15.8	4.97	c	c	c	c						
8/31/2008	c	c	c	c	c	c	3.2						
10/31/2008	20.5	27.5	15.78	30.5	23.45	11.25	c						
11/30/2008	9.98	24.8	6.85	c	c	c	c						
12/31/2008	c	c	c	15.75	c	c	c						
1/31/2009	c	c	c	15.6	c	c	c						
4/30/2009	7.02	17.1	7.66	c	c	c	c						

Name	Abbreviation
milligrams per liter	mg/L
pounds per day	lbs/dy
total suspended solids	TSS
carbonaceous biochemical oxygen demand	CBOD
maximum	max.
minimum	min.
compliant	c
concentration	conc.

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600672240	City of Maypearl	Classification: AVERAGE	Rating: 1.14
Regulated Entity:	RN101812612	CITY OF MAYPEARL WASTEWATER TREATMENT PLANT	Classification: AVERAGE	Site Rating: 1.14
ID Number(s):	WASTEWATER	PERMIT		WQ0010431001
	WASTEWATER	PERMIT		TPDES0053571
	WASTEWATER	PERMIT		TX0053571
	WASTEWATER LICENSING	LICENSE		WQ0010431001
Location:	APPROXIMATELY 0.5 MI S OF THE INTERSECTION FM RD 86 AND FM 157 IN ELLIS COUNTY			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	October 06, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	October 06, 2004 to October 06, 2009			

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

Name: Samuel Short Phone: (512) 239-5363

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s) ? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site :

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

N/A

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

N/A

C. Chronic excessive emissions events.

N/A

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

- | | | |
|----|------------|----------|
| 1 | 10/13/2004 | (358646) |
| 2 | 10/13/2004 | (358647) |
| 3 | 11/08/2004 | (358648) |
| 4 | 12/03/2004 | (358649) |
| 5 | 12/03/2004 | (358650) |
| 6 | 01/05/2005 | (384398) |
| 7 | 01/05/2005 | (384399) |
| 8 | 01/05/2005 | (384400) |
| 9 | 01/05/2005 | (770011) |
| 10 | 03/06/2005 | (581589) |
| 11 | 03/06/2005 | (581591) |
| 12 | 04/08/2005 | (377020) |
| 13 | 05/06/2005 | (581586) |
| 14 | 05/06/2005 | (581610) |
| 15 | 07/21/2005 | (398349) |
| 16 | 09/12/2005 | (581594) |
| 17 | 09/12/2005 | (581595) |
| 18 | 10/12/2005 | (581597) |
| 19 | 10/12/2005 | (581600) |
| 20 | 10/12/2005 | (581602) |

21	10/12/2005	(581604)
22	01/31/2006	(581606)
23	01/31/2006	(581608)
24	03/22/2006	(581587)
25	03/22/2006	(581590)
26	04/14/2006	(581592)
27	05/13/2006	(770013)
28	05/25/2006	(464899)
29	06/26/2006	(581596)
30	07/10/2006	(581598)
31	07/31/2006	(489088)
32	08/31/2006	(581601)
33	09/20/2006	(581603)
34	10/11/2006	(581605)
35	11/13/2006	(581607)
36	12/22/2006	(581609)
37	01/19/2007	(581611)
38	02/22/2007	(581588)
39	02/28/2007	(538183)
40	03/11/2007	(770008)
41	04/20/2007	(581593)
42	06/04/2007	(770014)
43	06/06/2007	(562095)
44	07/16/2007	(770017)
45	07/26/2007	(581599)
46	09/17/2007	(608195)
47	09/20/2007	(770021)
48	11/02/2007	(770023)
49	11/18/2007	(770025)
50	02/05/2008	(770028)
51	02/05/2008	(770030)
52	03/03/2008	(770006)
53	03/05/2008	(638072)
54	03/18/2008	(770010)
55	04/28/2008	(770012)
56	05/28/2008	(770015)
57	05/28/2008	(770018)
58	07/16/2008	(770019)
59	08/12/2008	(770020)
60	09/22/2008	(770022)
61	10/17/2008	(770024)
62	11/13/2008	(770026)
63	12/16/2008	(770029)
64	01/23/2009	(770031)
65	02/20/2009	(770007)
66	03/24/2009	(770009)
67	05/20/2009	(770016)
68	10/02/2009	(761596)

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

Date: 11/30/2004 (384400) CN600672240

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: 12/31/2004 (581610) CN600672240

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: 07/18/2005 (398349) Classification: Major
 Self Report? NO
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
 Description: Failure to prevent the discharge of wastewater from the collection system.
 Date: 03/31/2006 (581692) CN600672240
 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 (770013) CN600672240
 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: 05/26/2006 (464899)
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.126(a)
 Description: Failure meet permitted effluent limitations or to initiate planning for expansion or updating
 of the WWTP and/or collection system to meet the 75/90 Rule.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 317 317.4(a)(8)
 30 TAC Chapter 317 317.7(i)
 Description: Failure to provide evidence that RPZ backflow prevention device has been tested
 annually.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.4(g)
 Description: Failure to maintain the treatment facility.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to maintain compliance with the permitted effluent limits for TSS, NH3N, and
 chlorine residual.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to ensure flow measurement accuracy.
 Date: 07/31/2006 (581601) CN600672240
 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: 08/01/2006 (489088) CN600672240
 Self Report? NO Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 Description: Failure to prevent the unauthorized discharge of wastewater from the treatment plant.
 Date: 01/31/2007 (581588) CN600672240
 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 (538183) CN600672240
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.126(a)
 Description: Failure meet permitted effluent limitations or to initiate planning for expansion or updating
 of the WWTP and/or collection system to meet the 75/90 Rule.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to maintain compliance with the permitted effluent limits for TSS, NH3N, and
 chlorine residual.
 Self Report? NO Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 Description: Failure to prevent the unauthorized discharge of wastewater from the treatment plant.

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(9) Monitoring and Reporting Requirements PERMIT		
Description:	Failure to provide noncompliance notification as required by permit.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Final Effluent Limitations PERMIT		
Description:	Failure to maintain compliance with permitted effluent limits.		
Date:	04/30/2007	(770014)	CN600672240
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	(770017)	CN600672240
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	(581599)	CN600672240
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:	07/31/2007	(608195)	CN600672240
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	12/31/2007	(770030)	CN600672240
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	06/30/2008	(770019)	CN600672240
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		CN600672240
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	08/31/2008	(770022)	CN600672240
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	10/31/2008	(770026)	CN600672240
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	11/30/2008	(770029)	CN600672240
Self Report?	YES	Classification:	Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date:	12/31/2008	(770031)	CN600672240
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: 01/31/2009 (770007) CN600672240
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: 04/30/2009 (770016) CN600672240
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

- F. Environmental audits.
N/A
 - G. Type of environmental management systems (EMSs).
N/A
 - H. Voluntary on-site compliance assessment dates.
N/A
 - I. Participation in a voluntary pollution reduction program.
N/A
 - J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF MAYPEARL
RN101612612**

§
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§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1641-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality (“the Commission” or “TCEQ”) considered this agreement of the parties, resolving an enforcement action regarding the City of Maypearl (“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 0.5 mile south of the intersection of Farm-to-Market Road 66 and Farm-to-Market Road 157 in Ellis 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 July 9, 2009, TCEQ staff documented the following effluent values based on the self-reported discharge monitoring reports ("DMRs").

<i>EFFLUENT PARAMETER</i>							
<i>Permit Limit</i>							
	Ammonia Nitrogen Daily Average Conc.	Ammonia Nitrogen Single Grab max.	Ammonia Nitrogen Daily Average Loading	TSS Daily Average Conc.	TSS Daily Average Loading	CBOD Daily Average Conc.	Dissolved Oxygen Monthly minimum
<i>Month/Year</i>	3 mg/L	15 mg/L	4.4 lbs/dy	15 mg/L	22 lbs/dy	10 mg/L	4 mg/L
5/30/2008	7.81	c	6.89	c	c	c	c
6/30/2008	6.5	15.6	4.97	c	c	c	c
8/31/2008	c	c	c	c	c	c	3.2
10/31/2008	20.5	27.5	15.78	30.5	23.45	11.25	c
11/30/2008	9.98	24.8	6.85	c	c	c	c
12/31/2008	c	c	c	15.75	c	c	c
1/31/2009	c	c	c	15.6	c	c	c
4/30/2009	7.02	17.1	7.66	c	c	c	c

Name	Abbreviation
milligrams per liter	mg/L
pounds per day	lbs/dy
total suspended solids	TSS
carbonaceous biochemical oxygen demand	CBOD
maximum	max.
minimum	min.
compliant	c
concentration	conc.

4. The City received notice of the violations on October 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 the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010431001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6.
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 Seventeen Thousand Seven Hundred Thirty Dollars (\$17,730) 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. Seventeen Thousand Seven Hundred Thirty Dollars (\$17,730) 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 Seventeen Thousand Seven Hundred Thirty Dollars (\$17,730) 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 Maypearl, Docket No. 2009-1641-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, Seventeen Thousand Seven Hundred Thirty Dollars (\$17,730) 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. WQ0010431001, including specific corrective actions that were implemented at the Facility to

achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the 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 I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is 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
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

4. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in

writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
8. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
9. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
10. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
11. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

2/17/2010
Date

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

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

1/5/10
Date

John Wayne Pruitt
Name (Printed or typed)
Authorized Representative of
City of Maypearl

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: 2009-1641-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Maypearl
Penalty Amount:	Seventeen Thousand Seven Hundred Thirty Dollars (\$17,730)
SEP Offset Amount:	Seventeen Thousand Seven Hundred Thirty Dollars (\$17,730)
Type of SEP:	Pre-approved
Third-Party Recipient:	Keep Texas Beautiful - Stop Trashing Texas Program
Location of SEP:	Ellis County

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

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to Keep Texas Beautiful for the Stop Trashing Texas project as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, SEP funds will pay for the labor and disposal costs associated with cleanup of unauthorized trash dumps by supplying project coordination, labor, supplies, and materials for clean up events statewide. SEP funds used for this purpose shall be limited to the actual direct costs for the specific purpose necessary to meet the requirements of the SEP and no portion of the SEP funds will be spent on administrative costs related to this portion of the SEP. Trash dump cleanups may be coordinated with waste collection facilities and/or local governments to employ heavy machinery for the removal of large waste items. To the maximum extent possible, cleanups shall be accomplished with the use of volunteers from community groups, private companies, schools, and youth organizations. SEP Funds may be used for activities. This project will be administered in accordance with federal, state, and local environmental laws and regulations.

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

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by removing unauthorized trash dumps and providing for the proper disposal of debris and waste, reducing the potential health threats associated with illegally dumped wastes, helping rid communities of hazardous contaminants that may leach into the soil and water.

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:

Keep Texas Beautiful
Attention: Anre Cunic, Affiliate Services Manager
8850 Business Park Dr., Ste. 200
Austin, TX 78759

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:

Litigation Division
Attention: SEP Coordinator, MC 175
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 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 submit a check for any remaining amount due made payable to “Texas Commission on Environmental Quality” with the notation “SEP Refund” and the docket number of the case, and shall send it to:

Texas Commission on Environmental Quality
Office of Legal Services
Attention: SEP Coordinator, MC 175
P.O. Box 13088
Austin, Texas 78711-3088

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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

