

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2009-1473-WQ-E **TCEQ ID:** RN105066609 **CASE NO.:** 38248
RESPONDENT NAME: City of Robinson

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 Robinson Collection System, located approximately 400 feet south of the Master Lift Station on Stovall Drive along Flat Creek, Robinson, McLennan County</p> <p>TYPE OF OPERATION: Wastewater collection system that includes a wastewater line</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 8, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Ms. Carlie Konkol, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-0735; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: The Honorable Bryan Ferguson, Mayor, City of Robinson, 111 West Lyndale Avenue, Robinson, Texas 76706 Mr. Robert E. Cervenka, City Manager, City of Robinson, 111 West Lyndale Avenue, Robinson, Texas 76706 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 checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input 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 11, 2009</p> <p>Date of NOV/NOE Relating to this Case: August 5, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WATER</p> <p>Failure to prevent the unauthorized discharge of raw wastewater into or adjacent to water in the state. Specifically, on June 10, 2009, approximately 110,000 gallons of raw wastewater was discharged from a corroded wastewater mainline pipe into Flat Creek killing approximately 140 fish [TEX. WATER CODE § 26.121(a)(1)].</p>	<p>Total Assessed: \$5,100</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$5,100</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: Environmental receptors have been exposed to pollutants which exceed levels that are protective.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. On June 10, 2009, contained the spill, disinfected the area with chlorine, and repaired the wastewater mainline pipe; and</p> <p>b. By June 19, 2009, completed pumping water from and flushing water through Flat Creek.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p>

Additional ID No(s): MWQ/McLennan 2009/CO

Attachment A
Docket Number: 2009-1473-WQ-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Robinson
Penalty Amount:	Five Thousand One Hundred Dollars (\$5,100)
SEP Offset Amount:	Five Thousand One Hundred Dollars (\$5,100)
Type of SEP:	Pre-approved
Third-Party Recipient:	Keep Texas Beautiful - Stop Trashing Texas Program
Location of SEP:	McLennan 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
Hester Bloom, Program 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

ICEQ	DATES	Assigned PCW 17-Aug-2009	Screening 25-Aug-2009	EPA Due	
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RESPONDENT/FACILITY INFORMATION	
Respondent	City of Robinson
Reg. Ent. Ref. No.	RN105066609
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38248	No. of Violations	1
Docket No.	2009-1473-WQ-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Carlie Konkol
Admin. Penalty \$ Limit Minimum	\$0	EC's Team	Enforcement Team 3
Maximum	\$10,000		

Penalty Calculation Section	
TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1 <input type="text" value="\$5,000"/>
ADJUSTMENTS (+/-) TO SUBTOTAL 1	
Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.	
Compliance History	Subtotals 2, 3, & 7 <input type="text" value="\$1,350"/>
Notes	An enhancement is recommended for one Notice of Violation ("NOV") with same or similar violations, one NOV with violations unrelated to this case and one final enforcement order containing a denial of liability.
Culpability	Subtotal 4 <input type="text" value="\$0"/>
Notes	The Respondent does not meet the culpability criteria.
Good Faith Effort to Comply Total Adjustments	Subtotal 5 <input type="text" value="\$1,250"/>
Economic Benefit	Subtotal 6 <input type="text" value="\$0"/>
Total EB Amounts <input type="text" value="\$34"/> Approx. Cost of Compliance <input type="text" value="\$27,500"/>	0.0% Enhancement* *Capped at the Total EB \$ Amount
SUM OF SUBTOTALS 1-7	Final Subtotal <input type="text" value="\$5,100"/>
OTHER FACTORS AS JUSTICE MAY REQUIRE	Adjustment <input type="text" value="\$0"/>
Reduces or enhances the Final Subtotal by the indicated percentage.	
Notes	
	Final Penalty Amount <input type="text" value="\$5,100"/>
STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty <input type="text" value="\$5,100"/>
DEFERRAL	Adjustment <input type="text" value="\$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	<input type="text" value="\$5,100"/>

Screening Date 25-Aug-2009

Docket No. 2009-1473-WQ-E

PCW

Respondent City of Robinson

Policy Revision 2 (September 2002)

Case ID No. 38248

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105066609

Media [Statute] Water Quality

Enf. Coordinator Carlie Konkol

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	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 judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 27%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

An enhancement is recommended for one Notice of Violation ("NOV") with same or similar violations, one NOV with violations unrelated to this case and one final enforcement order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 27%

Screening Date 25-Aug-2009

Docket No. 2009-1473-WQ-E

PCW

Respondent City of Robinson

Policy Revision 2 (September 2002)

Case ID No. 38248

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN105066609

Media [Statute] Water Quality

Enf. Coordinator Carlie Konkol

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text" value="50%"/>
Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

>> Programmatic Matrix

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

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x	daily	<input checked="" type="checkbox"/>
	weekly	<input type="checkbox"/>
	monthly	<input type="checkbox"/>
	quarterly	<input type="checkbox"/>
	semiannual	<input type="checkbox"/>
	annual	<input type="checkbox"/>
single event	<input type="checkbox"/>	

Violation Base Penalty

Good Faith Efforts to Comply

	25.0% Reduction		
	Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text" value="\$1,250"/>
Ordinary	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
N/A	<input type="checkbox"/> (mark with x)		

Notes

Violation Subtotal

Economic Benefit (EB) for this violation

Estimated EB Amount

Statutory Limit Test

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Robinson
 Case ID No. 38248
 Reg. Ent. Reference No. RN105066609
 Media Water Quality
 Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$27,500	10-Jun-2009	19-Jun-2009	0.02	\$34	n/a	\$34
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: Estimated costs to contain the spill, disinfect the area with chlorine, repair the wastewater mainline and flush water through and pump water out of Flat Creek. Date required is the date of the discharge and immediate actions were taken. Final date is the date all remediation efforts were completed.

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

\$27,500

TOTAL

\$34

Compliance History Report

Customer/Respondent/Owner-Operator: CN600641765 City of Robinson Classification: AVERAGE Rating: 2.02
Regulated Entity: RN105066609 CITY OF ROBINSON Classification: AVERAGE Site Rating: 0.57
COLLECTION SYSTEM

ID Number(s):

Location: LOCATED APPROXIMATELY 400 FEET SOUTH OF THE MASTER LIFT STATION ON STOVALL DRIVE ALONG FLAT CREEK IN ROBINSON, MCLENNAN COUNTY, TEXAS.

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: August 25, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 25, 2004 to August 25, 2009

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

Name: Carlie Konkol Phone: (361) 825-3422

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership 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: 8/10/2007 ADMINORDER 2007-0005-WQ-E
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
Description: Failure to prevent the unauthorized discharge of raw wastewater into or adjacent to waters of the state.

- 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	08/30/2006	(509192)
2	08/22/2007	(564846)
3	09/11/2007	(571304)
4	02/26/2008	(509705)
5	02/28/2008	(618073)
6	06/10/2008	(646512)
7	10/01/2008	(702830)
8	08/09/2009	(764112)

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

Date: 06/27/2005 (376466)
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
Description: Failure by the permittee to prevent the discharge of wastewater into or adjacent to water in the state without authorization from the Commission.

Date: 08/25/2007

(540123)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)(A)

Description: Failure by the regulated entity to orally notify the TCEQ of an unauthorized discharge within 24 hours and provide written notification within 5 days of becoming aware of the noncompliance.

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 ROBINSON
RN105066609

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BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER
DOCKET NO. 2009-1473-WQ-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 Robinson ("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 collection system that includes a wastewater line located approximately 400 feet south of the Master Lift Station on Stovall Drive along Flat Creek in Robinson, McLennan 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 an investigation conducted on June 11, 2009, TCEQ staff documented the unauthorized discharge of raw wastewater. Specifically, on June 10, 2009, approximately 110,000 gallons of raw wastewater was discharged from a corroded wastewater mainline pipe into Flat Creek killing approximately 140 fish.
4. The City received notice of the violations on August 10, 2009.
5. The Executive Director recognizes that the City has implemented the following corrective measures at the Facility:
 - a. On June 10, 2009, contained the spill, disinfected the area with chlorine, and repaired the wastewater mainline pipe; and
 - b. By June 19, 2009, completed pumping water from and flushing water through Flat Creek.

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 prevent the unauthorized discharge of raw wastewater into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a)(1).
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 Five Thousand One Hundred Dollars (\$5,100) 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. Five Thousand One Hundred Dollars (\$5,100) 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 Five Thousand One Hundred Dollars (\$5,100) 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 Robinson, Docket No. 2009-1473-WQ-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, Five Thousand One Hundred Dollars (\$5,100) 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 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.
4. 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.
5. 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.
6. 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.
7. 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.

8. 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.
9. 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.
10. 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

2/25/2010
Date

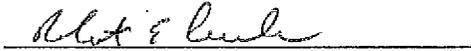
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Robinson. I am authorized to agree to the attached Agreed Order on behalf of the City of Robinson, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting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

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

12-22-09
Date

Robert E. Cervenk

Name (Printed or typed)
Authorized Representative of
City of Robinson

City Manager

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: 2009-1473-WQ-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Robinson
Penalty Amount: Five Thousand One Hundred Dollars (\$5,100)
SEP Offset Amount: Five Thousand One Hundred Dollars (\$5,100)
Type of SEP: Pre-approved
Third-Party Recipient: Keep Texas Beautiful - Stop Trashing Texas Program
Location of SEP: McLennan 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
Hester Bloom, Program 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.

