

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER**

**DOCKET NO.: 2009-1488-SLG-E TCEQ ID: RN103154597 CASE NO.: 38368**

**RESPONDENT NAME: City of Galveston**

<b>ORDER TYPE:</b>		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED-ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<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><b>SITE WHERE VIOLATION(S) OCCURRED:</b> City of Galveston, 5200 Port Industrial Boulevard, Galveston, Galveston County</p> <p><b>TYPE OF OPERATION:</b> Transporter</p> <p><b>SMALL BUSINESS:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on March 1, 2010. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b>  <b>TCEQ Attorney/SEP Coordinator:</b> Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732  <b>TCEQ Enforcement Coordinator:</b> Ms. Merrilee Hupp, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-4490; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495  <b>Respondent:</b> The Honorable Lyda Ann Thomas, Mayor, City of Galveston, 823 Rosenberg, Galveston, Texas 77553                      Mr. Steve LeBlanc, City Manager, City of Galveston, 823 Rosenberg, Galveston, Texas 77553  <b>Respondent's Attorney:</b> Mr. Brad Castleberry, Lloyd Gosselink, Attorneys at Law, 816 Congress Avenue, Suite 1900, Austin, Texas 78701</p>		

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b>  <input type="checkbox"/> Complaint  <input checked="" type="checkbox"/> Routine  <input type="checkbox"/> Enforcement Follow-up  <input type="checkbox"/> Records Review</p> <p><b>Date(s) of Complaints Relating to this Case:</b> None</p> <p><b>Date of Investigation Relating to this Case:</b> August 6, 2009</p> <p><b>Date of NOV/NOE Relating to this Case:</b> August 25, 2009 (NOE)</p> <p><b>Background Facts:</b> This was a routine investigation.</p> <p><b>WATER</b></p> <p>1) Failure to apply for and receive a registration prior to transporting wastewater treatment sludge. Specifically, the previous registration expired on August 31, 2005, and the Respondent continued to transport sludge [30 TEX. ADMIN. CODE § 312.142(a)].</p> <p>2) Failure to mark discharge valves on trucks used to transport liquid wastewater sludge. Specifically, the discharge valve was not marked on the vacuum truck used to transport liquid sludge from the Respondent's wastewater treatment plants or lift stations to the main wastewater treatment plant [30 TEX. ADMIN. CODE § 312.144(f)].</p> <p>3) Failure to maintain a record of each individual collection and deposit in the form of a trip ticket in May and June 2009 [30 TEX. ADMIN. CODE § 312.145(a)].</p>	<p><b>Total Assessed:</b> \$5,400</p> <p><b>Total Deferred:</b> \$1,080  <input checked="" type="checkbox"/> Expedited Settlement  <input type="checkbox"/> Financial Inability to Pay</p> <p><b>SEP Conditional Offset:</b> \$4,320</p> <p><b>Total Paid (Due) to General Revenue:</b> \$0</p> <p><b>Site Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b>  <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Corrective Actions Taken:</b></p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:</p> <p>a. By August 18, 2009, was authorized by the TCEQ to transport wastewater sludge under Registration No. 21945;</p> <p>b. On August 24, 2009, began maintaining a record of each individual collection and deposit; and</p> <p>c. On August 26, 2009, provided photographic documentation that the discharge valve had been labeled on the Respondent's vacuum truck used to transport liquid sludge from the Respondent's wastewater treatment plants or lift stations to the main wastewater treatment plant.</p> <p><b>Ordering Provisions:</b></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): N/A

Attachment A  
Docket Number: 2009-1488-SLG-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>City of Galveston</b>
<b>Payable Penalty Amount:</b>	<b>Four Thousand Three Hundred Twenty Dollars (\$4,320)</b>
<b>SEP Amount:</b>	<b>Four Thousand Three Hundred Twenty Dollars (\$4,320)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Galveston Bay Foundation-“Marsh Mania”</b>
<b>Location of SEP:</b>	<b>Galveston County</b>

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

**1. Project Description**

A. Project

The Respondent shall contribute to the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Galveston Bay Foundation to be used for the Galveston Bay Foundation “Marsh Mania” as set forth in the agreement between the Third-Party Recipient and the TCEQ. SEP monies will be used to restore shoreline elevations, growing plants for shoreline restoration, and planting new habitat. Historic subsidence and erosion have resulted in shoreline elevations which are too low to support vegetation. This project will seek to raise elevations by scraping and terracing. Scraping involves the use of earthmoving equipment to grade an eroded, bluff-like shoreline so that it slopes gradually towards the water resulting in the ability of plant growth. Terracing uses earthmoving equipment to create small levees by burrowing and stacking sediment in shallow water. The high elevation can then be planted with emergent vegetation. SEP monies will be used to pay for the direct costs of the implementation of the project, including material, equipment, and labor costs.

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 providing food and shelter for a variety of native fish, shellfish, birds, and mammals. The marshes will also result in the reduction of pollution by filtering particulates and excess nutrients from runoff. In addition, the new habitat will protect shorelines from erosion and will help reduce the effects of flooding.



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:

Mr. Bob Stokes, President  
Galveston Bay Foundation  
17234-A Highway 3  
Wester, Texas 77598

**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:

Texas Commission on Environmental Quality  
Financial Administration Division, Revenues  
Attention: Cashier, MC 214  
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

<b>DATES</b>	Assigned	31-Aug-2009			
	PCW	9-Sep-2009	Screening	9-Sep-2009	EPA Due

<b>RESPONDENT/FACILITY INFORMATION</b>	
Respondent	City of Galveston
Reg. Ent. Ref. No.	RN103154597
Facility/Site Region	12-Houston
Major/Minor Source	Minor

<b>CASE INFORMATION</b>			
Enf./Case ID No.	38368	No. of Violations	3
Docket No.	2009-1488-SLG-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Merrilee Hupp
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1 \$7,000

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

**Compliance History** 0.0% Enhancement Subtotals 2, 3, & 7 \$0

Notes No change due to compliance history.

**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 \$1,600

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

Total EB Amounts \$46  
 Approx. Cost of Compliance \$610  
*\*Capped at the Total EB \$ Amount*

**SUM OF SUBTOTALS 1-7** Final Subtotal \$5,400

**OTHER FACTORS AS JUSTICE MAY REQUIRE** 0.0% Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

**Final Penalty Amount** \$5,400

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty \$5,400

**DEFERRAL** 20.0% Reduction Adjustment -\$1,080

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

Notes Deferral offered for expedited settlement.

**PAYABLE PENALTY** \$4,320

**Screening Date** 9-Sep-2009

**Docket No.** 2009-1488-SLG-E

**PCW**

**Respondent** City of Galveston

Policy Revision 2 (September 2002)

**Case ID No.** 38368

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN103154597

**Media [Statute]** Water Quality

**Enf. Coordinator:** Merrilee Hupp

**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)	0	0%
	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%

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)** 0%

>> **Repeat Violator (Subtotal 3)**

**Adjustment Percentage (Subtotal 3)** 0%

>> **Compliance History Person Classification (Subtotal 7)**

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

No change due to compliance history.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 0%

<b>Screening Date</b> 9-Sep-2009	<b>Docket No.</b> 2009-1488-SLG-E																								
<b>Respondent</b> City of Galveston	<b>PCW</b> <small>Policy Revision 2 (September 2002)</small>																								
<b>Case ID No.</b> 38368	<small>PCW Revision October 30, 2008</small>																								
<b>Reg. Ent. Reference No.</b> RN103154597																									
<b>Media [Statute]</b> Water Quality																									
<b>Enf. Coordinator</b> Merrilee Hupp																									
<b>Violation Number</b> 1																									
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 312.142(a)																								
<b>Violation Description</b>	Failed to apply for and receive a registration prior to transporting wastewater treatment sludge. Specifically, the previous registration expired on August 31, 2005, and the Respondent continued to transport sludge as documented during an investigation conducted on August 6, 2009.																								
	<b>Base Penalty</b> \$10,000																								
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																									
<b>OR</b>	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td colspan="3" style="text-align: center;">Harm</td> <td></td> </tr> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td style="text-align: center;">Release</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">Actual</td> <td></td> <td></td> <td></td> <td rowspan="2" style="text-align: right;">Percent <input type="text" value="0%"/></td> </tr> <tr> <td style="text-align: center;">Potential</td> <td></td> <td></td> <td></td> </tr> </table>		Harm					Major	Moderate	Minor		Release					Actual				Percent <input type="text" value="0%"/>	Potential			
		Harm																							
	Major	Moderate	Minor																						
Release																									
Actual				Percent <input type="text" value="0%"/>																					
Potential																									
<b>&gt;&gt; Programmatic Matrix</b>																									
<b>Matrix Notes</b>	<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td style="text-align: center;">Major</td> <td style="text-align: center;">Moderate</td> <td style="text-align: center;">Minor</td> <td></td> </tr> <tr> <td style="text-align: center;">Falsification</td> <td></td> <td></td> <td></td> <td rowspan="2" style="text-align: right;">Percent <input type="text" value="10%"/></td> </tr> <tr> <td></td> <td style="text-align: center;">x</td> <td></td> <td></td> </tr> </table>		Major	Moderate	Minor		Falsification				Percent <input type="text" value="10%"/>		x												
		Major	Moderate	Minor																					
Falsification				Percent <input type="text" value="10%"/>																					
	x																								
	100% of the rule requirement was not met.																								
	<b>Adjustment</b> \$9,000																								
	<b>\$1,000</b>																								
<b>Violation Events</b>																									
Number of Violation Events <input type="text" value="4"/>	<input type="text" value="1448"/> Number of violation days																								
<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td rowspan="6" style="text-align: center; vertical-align: middle;"><small>mark only one with an x</small></td> <td style="text-align: center;">daily</td> <td></td> </tr> <tr> <td style="text-align: center;">weekly</td> <td></td> </tr> <tr> <td style="text-align: center;">monthly</td> <td></td> </tr> <tr> <td style="text-align: center;">quarterly</td> <td></td> </tr> <tr> <td style="text-align: center;">semiannual</td> <td></td> </tr> <tr> <td style="text-align: center;">annual</td> <td style="text-align: center;">x</td> </tr> <tr> <td style="text-align: center;">single event</td> <td></td> </tr> </table>	<small>mark only one with an x</small>	daily		weekly		monthly		quarterly		semiannual		annual	x	single event		<b>Violation Base Penalty</b> \$4,000									
<small>mark only one with an x</small>		daily																							
		weekly																							
		monthly																							
		quarterly																							
		semiannual																							
	annual	x																							
single event																									
<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;">                 Four annual events are recommended from the August 31, 2005 expiration date of the registration to the date the registration was approved on August 18, 2009.             </div>																									
<b>Good Faith Efforts to Comply</b>	<b>25.0% Reduction</b> \$1,000																								
<table border="1" style="margin-left: auto; margin-right: auto;"> <tr> <td></td> <td style="text-align: center;">Before NOV</td> <td style="text-align: center;">NOV to EDPRP/Settlement Offer</td> </tr> <tr> <td style="text-align: center;">Extraordinary</td> <td></td> <td></td> </tr> <tr> <td style="text-align: center;">Ordinary</td> <td style="text-align: center;">x</td> <td></td> </tr> <tr> <td style="text-align: center;">N/A</td> <td></td> <td style="text-align: center;">(mark with x)</td> </tr> </table>		Before NOV	NOV to EDPRP/Settlement Offer	Extraordinary			Ordinary	x		N/A		(mark with x)													
	Before NOV	NOV to EDPRP/Settlement Offer																							
Extraordinary																									
Ordinary	x																								
N/A		(mark with x)																							
<b>Notes</b>	The Respondent achieved compliance on August 18, 2009.																								
	<b>Violation Subtotal</b> \$3,000																								
<b>Economic Benefit (EB) for this violation</b>																									
<b>Estimated EB Amount</b> \$40	<b>Statutory Limit Test</b>																								
	<b>Violation Final Penalty Total</b> \$3,000																								
	<b>This violation Final Assessed Penalty (adjusted for limits)</b> \$3,000																								

## Economic Benefit Worksheet

**Respondent** City of Galveston  
**Case ID No.** 38368  
**Reg. Ent. Reference No.** RN103154597  
**Media** Water Quality  
**Violation No.** 1

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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	\$200	31-Aug-2005	18-Aug-2009	3.97	\$40	n/a	\$40
Other (as needed)				0.00	\$0	n/a	\$0

**Notes for DELAYED costs**  
 Actual cost to prepare and submit an administratively complete application to register as a transporter of municipal wastewater plant sludges. Cost includes a ten dollar authorization sticker fee. Date required is the date the registration expired. Final date is the date of compliance.

**Avoided Costs**

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

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

**Notes for AVOIDED costs**

Approx. Cost of Compliance	\$200	<b>TOTAL</b>	\$40
----------------------------	-------	--------------	------

<b>Screening Date</b> 9-Sep-2009	<b>Docket No.</b> 2009-1488-SLG-E	<b>PCW</b>		
<b>Respondent</b> City of Galveston	<small>Policy Revision 2 (September 2002)</small>			
<b>Case ID No.</b> 38368	<small>PCW Revision October 30, 2008</small>			
<b>Reg. Ent. Reference No.</b> RN103154597				
<b>Media [Statute]</b> Water Quality				
<b>Enf. Coordinator</b> Merrilee Hupp				
<b>Violation Number</b> <input type="text" value="2"/>				
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 312.144(f)			
<b>Violation Description</b>	Failed to mark discharge valves on trucks used to transport liquid wastewater sludge, as documented during an investigation conducted on August 6, 2009. Specifically, the discharge valve was not marked on the vacuum truck used to transport liquid sludge from the Respondent's wastewater treatment plants or lift stations to the main wastewater treatment plant.			
	<b>Base Penalty</b>	<input type="text" value="\$10,000"/>		
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>				
<b>OR</b>	<b>Harm</b>			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>
Potential	<input type="text"/>	x	<input type="text"/>	<b>Percent</b> <input type="text" value="10%"/>
<b>&gt;&gt; Programmatic Matrix</b>				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
				<b>Percent</b> <input type="text" value="0%"/>
<b>Matrix Notes</b>	Human health or the environment could be exposed to significant amounts of pollutants which would not exceed protective levels as a result of this violation.			
	<b>Adjustment</b>			<input type="text" value="\$9,000"/>
			<input type="text" value="\$1,000"/>	
<b>Violation Events</b>				
	<b>Number of Violation Events</b>	<input type="text" value="1"/>	<b>Number of violation days</b>	<input type="text" value="15"/>
<small>mark only one with an x</small>	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	x		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
				<b>Violation Base Penalty</b> <input type="text" value="\$1,000"/>
One monthly event is recommended from the August 6, 2009 investigation date to the August 26, 2009 date of compliance.				
<b>Good Faith Efforts to Comply</b>			<b>10.0% Reduction</b>	<input type="text" value="\$100"/>
	Extraordinary	Before NOV	NOV to EDCRP/Settlement Offer	
	Ordinary	<input type="text"/>	x	
	N/A	(mark with x)		
<b>Notes</b>	The Respondent achieved compliance on August 26, 2009			
			<b>Violation Subtotal</b>	<input type="text" value="\$900"/>
<b>Economic Benefit (EB) for this violation</b>			<b>Statutory Limit Test</b>	
	<b>Estimated EB Amount</b>	<input type="text" value="\$0"/>	<b>Violation Final Penalty Total</b>	<input type="text" value="\$900"/>
			<b>This violation Final Assessed Penalty (adjusted for limits)</b>	<input type="text" value="\$900"/>

## Economic Benefit Worksheet

**Respondent** City of Galveston  
**Case ID No.** 38368  
**Reg. Ent. Reference No.** RN103164597  
**Media** Water Quality  
**Violation No.** 2

<b>Percent Interest</b>	<b>Years of Depreciation</b>
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)	\$10	6-Aug-2009	26-Aug-2009	0.05	\$0	n/a	\$0

Notes for DELAYED costs

Actual cost of obtaining lettering and the labor associated with labeling the discharge valve on the vacuum truck.  
 Date required is the investigation date and final date is the date compliance was achieved.

**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

**TOTAL**

\$0

<b>Screening Date</b> 9-Sep-2009	<b>Docket No.</b> 2009-1488-SLG-E	<b>PCW</b>															
<b>Respondent</b> City of Galveston		<small>Policy Revision 2 (September 2002)</small>															
<b>Case ID No.</b> 38368		<small>PCW Revision October 30, 2008</small>															
<b>Reg. Ent. Reference No.</b> RN103154597																	
<b>Media [Statute]</b> Water Quality																	
<b>Enf. Coordinator</b> Merrilee Hupp																	
<b>Violation Number</b> 3																	
<b>Rule Cite(s)</b>	30 Tex. Admin. Code § 312.145(a)																
<b>Violation Description</b>	Failed to maintain a record of each individual collection and deposit in the form of a trip ticket in May and June 2009, as documented during an investigation conducted on August 6, 2009.																
	<b>Base Penalty</b>	\$10,000															
<b>&gt;&gt; Environmental, Property and Human Health Matrix</b>																	
<b>OR</b>	<b>Release</b>	<b>Harm</b>															
		Major    Moderate    Minor															
	Actual	Potential	<b>Percent</b> 0%														
	Falsification	Major    Moderate    Minor	<b>Percent</b> 10%														
<b>Matrix Notes</b>	100% of the rule requirement was not met.																
	<b>Adjustment</b>	\$9,000															
		\$1,000															
<b>Violation Events</b>																	
	<b>Number of Violation Events</b>	2	<b>Number of violation days</b> 61														
<small>mark only one with an x</small>		<table border="1" style="width:100%; border-collapse: collapse;"> <tr><td>daily</td><td><input type="checkbox"/></td></tr> <tr><td>weekly</td><td><input type="checkbox"/></td></tr> <tr><td>monthly</td><td><input checked="" type="checkbox"/></td></tr> <tr><td>quarterly</td><td><input type="checkbox"/></td></tr> <tr><td>semiannual</td><td><input type="checkbox"/></td></tr> <tr><td>annual</td><td><input type="checkbox"/></td></tr> <tr><td>single event</td><td><input type="checkbox"/></td></tr> </table>	daily	<input type="checkbox"/>	weekly	<input type="checkbox"/>	monthly	<input checked="" type="checkbox"/>	quarterly	<input type="checkbox"/>	semiannual	<input type="checkbox"/>	annual	<input type="checkbox"/>	single event	<input type="checkbox"/>	<b>Violation Base Penalty</b> \$2,000
daily	<input type="checkbox"/>																
weekly	<input type="checkbox"/>																
monthly	<input checked="" type="checkbox"/>																
quarterly	<input type="checkbox"/>																
semiannual	<input type="checkbox"/>																
annual	<input type="checkbox"/>																
single event	<input type="checkbox"/>																
	Two monthly events are recommended.																
<b>Good Faith Efforts to Comply</b>		25.0% Reduction	\$500														
	Before NOV	NOV to EDPRP/Settlement Offer															
Extraordinary	<input type="checkbox"/>	<input type="checkbox"/>															
Ordinary	<input checked="" type="checkbox"/>	<input type="checkbox"/>															
N/A	<input type="checkbox"/>	(mark with x)															
<b>Notes</b>	The Respondent began maintaining a record of each collection and deposit on August 24, 2009.																
	<b>Violation Subtotal</b>	\$1,500															
<b>Economic Benefit (EB) for this violation</b>		<b>Statutory Limit Test</b>															
<b>Estimated EB Amount</b>	\$6	<b>Violation Final Penalty Total</b>	\$1,500														
	<b>This violation Final Assessed Penalty (adjusted for limits)</b>		\$1,500														

## Economic Benefit Worksheet

**Respondent** City of Galveston  
**Case ID No.** 38368  
**Reg. Ent. Reference No.** RN103154597  
**Media** Water Quality  
**Violation No.** 3

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	\$400	1-May-2009	24-Aug-2009	0.32	\$6	n/a	\$6
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 obtain, complete, and maintain forms for each of the wastewater plant collections and deposits of sludge. Date required is the investigation date and final date is the date compliance was achieved.

**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

\$400

TOTAL

\$6

# Compliance History Report

Customer/Respondent/Owner-Operator: CN600241376 City of Galveston Classification: AVERAGE Rating: 7.36  
Regulated Entity: RN103154597 CITY OF GALVESTON Site Rating: 3.01 Classification: AVERAGE BY DEFAULT  
ID Number(s): SLUDGE REGISTRATION 21945  
Location: 5200 PORT INDUSTRIAL BLVD, GALVESTON, Galveston Co. Texas  
TCEQ Region: REGION 12 - HOUSTON  
Date Compliance History Prepared: August 31, 2009  
Agency Decision Requiring Compliance History: Enforcement  
Compliance Period: August 31, 2004 to August 31, 2009  
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History  
Name: Merrilee Hupp Phone: 239 - 4490

## Site Compliance History Components

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

## Components (Multimedia) for the Site :

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

N/A

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

N/A

C. Chronic excessive emissions events.

N/A

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

1 08/24/2009 (765079)

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

N/A

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 GALVESTON  
RN103154597**

§  
§  
§  
§  
§

**BEFORE THE  
TEXAS COMMISSION ON  
ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2009-1488-SLG-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of Galveston ("the City") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City, represented by Brad Castleberry of the law firm of Lloyd Gosselink Attorneys at Law, appear before the Commission and together stipulate that:

1. The City owns and operates vehicles used to transport wastewater treatment sludge from or to the main wastewater treatment plant at 5200 Port Industrial Boulevard in Galveston, Galveston County, Texas (the "Site").
2. The City has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and the City agree that the Commission has jurisdiction to enter this Agreed Order, and that the City is subject to the Commission's jurisdiction.
4. The City received notice of the violations alleged in Section II ("Allegations") on or about August 30, 2009.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the City of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Five Thousand Four Hundred Dollars (\$5,400) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Eighty Dollars (\$1,080) is deferred contingent upon the City's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the City fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the City to pay all or part of the deferred penalty. Four Thousand Three Hundred Twenty Dollars (\$4,320) shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP").
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the City have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the City has implemented the following corrective measures at the Site:
  - a. By August 18, 2009, was authorized by the TCEQ to transport wastewater sludge under Registration No. 21945;
  - b. On August 24, 2009, began maintaining a record of each individual collection and deposit; and
  - c. On August 26, 2009, provided photographic documentation that the discharge valve had been labeled on the City's vacuum truck used to transport liquid sludge from the City's wastewater treatment plants or lift stations to the main wastewater treatment plant.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
11. 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.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Site, the City is alleged to have:

1. Failed to apply for and receive a registration prior to transporting wastewater treatment sludge, in violation of 30 TEX. ADMIN. CODE § 312.142(a), as documented during an investigation

conducted on August 6, 2009. Specifically, the previous registration expired on August 31, 2005, and the City continued to transport sludge.

2. Failed to mark discharge valves on trucks used to transport liquid wastewater sludge, in violation of 30 TEX. ADMIN. CODE § 312.144(f), as documented during an investigation conducted on August 6, 2009. Specifically, the discharge valve was not marked on the vacuum truck used to transport liquid sludge from the City's wastewater treatment plants or lift stations to the main wastewater treatment plant.
3. Failed to maintain a record of each individual collection and deposit in the form of a trip ticket in May and June 2009, in violation of 30 TEX. ADMIN. CODE § 312.145(a), as documented during an investigation conducted on August 6, 2009.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the City pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Galveston, Docket No. 2009-1488-SLG-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 I, Paragraph 6, Four Thousand Three Hundred Twenty Dollars (\$4,320) 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.
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. 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.
7. 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.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the City, or three days after the date on which the Commission mails notice of the Order to the City, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

City of Galveston  
DOCKET NO. 2009-1488-SLG-E  
Page 5

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

For the Executive Director

3/26/2010  
Date

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

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

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

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

Signature

12/15/09  
Date

Steve Lablanc  
Name (Printed or typed)  
Authorized Representative of  
City of Galveston

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.

APPROVED AS TO FORM  
  
Asst. City Attorney



Attachment A  
Docket Number: 2009-1488-SLG-E

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	<b>City of Galveston</b>
<b>Payable Penalty Amount:</b>	<b>Four Thousand Three Hundred Twenty Dollars (\$4,320)</b>
<b>SEP Amount:</b>	<b>Four Thousand Three Hundred Twenty Dollars (\$4,320)</b>
<b>Type of SEP:</b>	<b>Pre-approved</b>
<b>Third-Party Recipient:</b>	<b>Galveston Bay Foundation-“Marsh Mania”</b>
<b>Location of SEP:</b>	<b>Galveston County</b>

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

**1. Project Description**

A. Project

The Respondent shall contribute to the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Galveston Bay Foundation to be used for the Galveston Bay Foundation “Marsh Mania” as set forth in the agreement between the Third-Party Recipient and the TCEQ. SEP monies will be used to restore shoreline elevations, growing plants for shoreline restoration, and planting new habitat. Historic subsidence and erosion have resulted in shoreline elevations which are too low to support vegetation. This project will seek to raise elevations by scraping and terracing. Scraping involves the use of earthmoving equipment to grade an eroded, bluff-like shoreline so that it slopes gradually towards the water resulting in the ability of plant growth. Terracing uses earthmoving equipment to create small levees by burrowing and stacking sediment in shallow water. The high elevation can then be planted with emergent vegetation. SEP monies will be used to pay for the direct costs of the implementation of the project, including material, equipment, and labor costs.

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 providing food and shelter for a variety of native fish, shellfish, birds, and mammals. The marshes will also result in the reduction of pollution by filtering particulates and excess nutrients from runoff. In addition, the new habitat will protect shorelines from erosion and will help reduce the effects of flooding.

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:

Mr. Bob Stokes, President  
Galveston Bay Foundation  
17234-A Highway 3  
Wester, Texas 77598

**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:

Texas Commission on Environmental Quality  
Financial Administration Division, Revenues  
Attention: Cashier, MC 214  
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.

