

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1492-MWD-E TCEQ ID: RN101607778 CASE NO.: 38358

RESPONDENT NAME: City of Fairfield

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Mims Creek Plant, located approximately 4,000 feet east of United States Highway 75 and approximately 6,000 feet south of United States Highway 84, Freestone 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 April 12, 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. Lanae Foard, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2554; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: The Honorable Roy W. Hill, Mayor, City of Fairfield, 222 South Mount Street, Fairfield, Texas 75840 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 2, 2009</p> <p>Date of NOV/NOE Relating to this Case: August 28, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>1) Failure to comply with the permitted effluent limitations for dissolved oxygen and ammonia nitrogen [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010168002, Effluent Limitations and Monitoring Requirements Nos. 1 and 6].</p> <p>2) Failure to timely submit the discharge monitoring report ("DMR") for the monitoring period ending December 31, 2008, by the 20th day of the following month [30 TEX. ADMIN. CODE §§ 305.125(17) and 319.7(d), and TPDES Permit No. WQ0010168002, Monitoring and Reporting Requirements No. 1].</p>	<p>Total Assessed: \$9,970</p> <p>Total Deferred: \$1,994 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$7,976</p> <p>Total Paid (Due) to General Revenue: \$0</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. By June 21, 2009, rebuilt four aerators to address the dissolved oxygen and ammonia nitrogen issues at the Facility;</p> <p>b. During June 2009, returned to compliance with the permitted effluent limits of TPDES Permit No. WQ0010168002; and</p> <p>c. By September 11, 2009, submitted the DMR for the monitoring period ending December 31, 2008.</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): WQ0010168002

Attachment A
Docket Number: 2009-1492-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Fairfield
Payable Penalty Amount:	Seven Thousand Nine Hundred Seventy-Six Dollars (\$7,976)
SEP Amount:	Seven Thousand Nine Hundred Seventy-Six Dollars (\$7,976)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Unauthorized Trash Dump Clean-Up
Location of SEP:	Freestone County

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

1. Project Description

A. Project

The Respondent shall contribute to the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of Resource Conservation and Development Areas, Inc. to be used for the RC&D Unauthorized Trash Dump Clean-Up Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to coordinate with city and/or county governmental officials regarding the clean up of sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party can not be identified and where there is no pre-existing obligation to clean up the site by the owner or the government. Additionally, reasonable efforts must have already been taken to prevent the dumping. SEP monies will be used to pay for the direct cost of collection and disposal of debris. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all 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 helping rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.

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:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned PCW	31-Aug-2009	Screening	10-Sep-2009	EPA Due	
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RESPONDENT/FACILITY INFORMATION			
Respondent	City of Fairfield		
Reg. Ent. Ref. No.	RN101607778		
Facility/Site Region	9-Waco	Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	38358	No. of Violations	2
Docket No.	2009-1492-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jennifer Graves
		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

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement Subtotals 2, 3, & 7

Notes: Enhancement due to 19 monthly self-reported effluent violations, one NOV with same or similar violations and one final enforcement order containing a denial of liability.

Culpability Enhancement Subtotal 4

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments Subtotal 5

Economic Benefit Enhancement* Subtotal 6

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

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:

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty

DEFERRAL Reduction Adjustment

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

Screening Date 10-Sep-2009

Docket No. 2009-1492-MWD-E

PCW

Respondent City of Fairfield

Policy Revision 2 (September 2002)

Case ID No. 38358

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101607778

Media [Statute] Water Quality

Enf. Coordinator Jennifer Graves

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)	20	100%
	Other written NOVs	0	0%
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) 120%

>> **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 due to 19 monthly self-reported effluent violations, one NOV with same or similar violations and one final enforcement order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 120%

Screening Date 10-Sep-2009	Docket No. 2009-1492-MWD-E	PCW		
Respondent City of Fairfield	Policy Revision 2 (September 2002)			
Case ID No. 38358	PCW Revision October 30, 2008			
Reg. Ent. Reference No. RN101807778				
Media [Statute] Water Quality				
Enf. Coordinator Jennifer Graves				
Violation Number 1				
Rule Cite(s)	Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010168002, 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 on June 2, 2009, and shown in the attached violation table.			
Base Penalty		\$10,000		
>> Environmental, Property and Human Health Matrix				
Harm				
Release	Major	Moderate	Minor	
Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
Potential	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Percent			25%	
>> Programmatic Matrix				
Falsification				
Major			Moderate	Minor
<input type="checkbox"/>			<input type="checkbox"/>	<input type="checkbox"/>
Percent			0%	
Matrix Notes	A simplified model was used to evaluate ammonia-nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Dissolved oxygen was also considered. As a result of those discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.			
Adjustment			\$7,500	
			\$2,500	
Violation Events				
Number of Violation Events	2	120	Number of violation days	
mark only one with an x	daily	<input type="checkbox"/>		
	weekly	<input type="checkbox"/>		
	monthly	<input type="checkbox"/>		
	quarterly	<input checked="" type="checkbox"/>		
	semiannual	<input type="checkbox"/>		
	annual	<input type="checkbox"/>		
	single event	<input type="checkbox"/>		
Violation Base Penalty			\$5,000	
Two quarterly events are recommended.				
Good Faith Efforts to Comply				
25.0% Reduction			\$1,250	
Before NOV			NOV to EDRP/Settlement Offer	
Extraordinary	<input type="checkbox"/>			
Ordinary	<input checked="" type="checkbox"/>			
N/A	<input type="checkbox"/>	(mark with x)		
Notes	The Respondent achieved compliance by June 30, 2009.			
Violation Subtotal			\$3,750	
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount	\$10,176	Violation Final Penalty Total	\$9,750	
This violation Final Assessed Penalty (adjusted for limits)			\$9,750	

Economic Benefit Worksheet

Respondent City of Fairfield
Case ID No. 38358
Reg. Ent. Reference No. RN101807778
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
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No commas or \$

Delayed Costs

Equipment	\$145,376	30-Jun-2008	30-Jun-2009	1.00	\$485	\$9,692	\$10,176
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

Actual cost to rebuild four aerators to address the dissolved oxygen and ammonia nitrogen issues at the Facility. Date required is the initial month of non-compliance. 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

\$145,376

TOTAL

\$10,176

Screening Date	10-Sep-2009	Docket No.	2009-1492-MWD-E	PCW
Respondent	City of Fairfield			<i>Policy Revision 2 (September 2002)</i>
Case ID No.	38358			<i>PCW Revision October 30, 2008</i>
Reg. Ent. Reference No.	RN101607778			
Media [Statute]	Water Quality			
Enf. Coordinator	Jennifer Graves			
Violation Number	2			
Rule Cite(s)	30 Tex. Admin. Code §§ 305.125(17) and 319.7(d) and TPDES Permit No. WQ0010168002, Monitoring and Reporting Requirements No. 1			
Violation Description	Failed to timely submit the discharge monitoring report ("DMR") for the monitoring period ending December 31, 2008, by January 20, 2009.			
Base Penalty				\$10,000

>> Environmental, Property and Human Health Matrix

OR	Harm			Percent
	Major	Moderate	Minor	
	Actual			
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			x	

Matrix Notes 70% of the permit requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events Number of violation days

<i>mark only one with an x</i>	daily	
	weekly	
	monthly	
	quarterly	
	semiannual	
	annual	
single event	x	

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction	
<small>Before NOV NOV to EDRP/Settlement Offer</small>	
Extraordinary	
Ordinary	
N/A	x (mark with x)

\$0

Notes The Respondent achieved compliance on September 11, 2009.

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$4

Violation Final Penalty Total \$220

This violation Final Assessed Penalty (adjusted for limits) \$220

Economic Benefit Worksheet

Respondent City of Fairfield
Case ID No. 38358
Reg. Ent. Reference No. RN101607778
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment			0.00	\$0	\$0	\$0
Buildings			0.00	\$0	\$0	\$0
Other (as needed)	\$100	20-Jan-2009	11-Sep-2009	0.64	\$0	\$4
Engineering/construction			0.00	\$0	\$0	\$0
Land			0.00	\$0	n/a	\$0
Record Keeping System			0.00	\$0	n/a	\$0
Training/Sampling			0.00	\$0	n/a	\$0
Remediation/Disposal			0.00	\$0	n/a	\$0
Permit Costs			0.00	\$0	n/a	\$0
Other (as needed)			0.00	\$0	n/a	\$0

Notes for DELAYED costs Estimated cost to prepare and submit the DMR. Date required is the date the DMR was due. Final date is the date the DMR was submitted.

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 \$100 **TOTAL** \$4

City of Fairfield
 WQ0010168002; Case No. 38358
 2009-1492-MWD-E

EFFLUENT VIOLATION TABLE			
	DO Monthly Min.	NH₃-N Daily Avg. Conc.	NH₃-N Daily Max. Conc.
Months	Limit = 6.0 mg/L	Limit = 2.0 mg/L	Limit = 10 mg/L
6/30/2008	5.6	c	c
8/31/2008	5.3	c	c
12/31/2008	c	4.3	c
2/28/2009	c	6.9	16.5
DO = dissolved oxygen		Min. = minimum	
NH ₃ -N = ammonia nitrogen		Max. = maximum	
avg. = average		Conc. = concentration	
mg/L = milligrams per liter		c = compliant	

Compliance History Report

Customer/Respondent/Owner-Operator: CN600671242 City of Fairfield Classification: AVERAGE Rating: 1.95
Regulated Entity: RN101607778 MIMS CREEK PLANT Classification: AVERAGE Site Rating: 1.73

ID Number(s): WASTEWATER PERMIT WQ0010168002
WASTEWATER PERMIT TPDES0075850
WASTEWATER PERMIT TX0075850
WASTEWATER LICENSING LICENSE WQ0010168002

Location: LOCATED APPROX 4,000 FT E OF U.S. HWY 75
AND APPROX 6,000 FT S OF U.S. HWY 84 IN
FREESTONE CO, TEXAS

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: September 28, 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: Jennifer Graves Phone: 956-430-6023

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 judgments, and consent decrees of the state of Texas and the federal government.

Effective Date: 03/06/2006

ADMINORDER 2005-0576-MWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: EFFLUENT LIMITS PERMIT

Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

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

N/A

- C. Chronic excessive emissions events.

N/A

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

1	09/16/2004	(359730)
2	09/16/2004	(359733)
3	10/11/2004	(359734)
4	11/22/2004	(386151)
5	12/20/2004	(386152)
6	01/10/2005	(386153)

7	02/07/2005	(348558)
8	02/16/2005	(444840)
9	03/17/2005	(444841)
10	04/13/2005	(444842)
11	05/17/2005	(444843)
12	06/01/2005	(444844)
13	07/21/2005	(444845)
14	09/12/2005	(444846)
15	10/14/2005	(475718)
16	01/20/2006	(436136)
17	02/03/2006	(475716)
18	02/03/2006	(475719)
19	03/14/2006	(475717)
20	04/14/2006	(503059)
21	05/16/2006	(503060)
22	06/21/2006	(503061)
23	07/24/2006	(525399)
24	08/24/2006	(525400)
25	09/18/2006	(525401)
26	10/16/2006	(550106)
27	11/16/2006	(550107)
28	12/18/2006	(550108)
29	01/18/2007	(550109)
30	01/24/2007	(536874)
31	02/14/2007	(550105)
32	03/12/2007	(585092)
33	04/10/2007	(585093)
34	05/10/2007	(585094)
35	06/12/2007	(585095)
36	07/16/2007	(585096)
37	08/09/2007	(585097)
38	09/11/2007	(604472)
39	10/15/2007	(604473)
40	11/08/2007	(623536)
41	12/10/2007	(623537)
42	01/07/2008	(623538)
43	02/13/2008	(674813)
44	03/10/2008	(674814)
45	04/09/2008	(674815)
46	05/08/2008	(693157)
47	06/06/2008	(693158)
48	07/10/2008	(693159)
49	08/13/2008	(714384)
50	09/09/2008	(714385)
51	10/08/2008	(714386)
52	11/07/2008	(714387)
53	12/08/2008	(730352)
54	01/08/2009	(730353)
55	02/09/2009	(753574)
56	03/09/2009	(753575)
57	04/08/2009	(753576)
58	05/08/2009	(771029)
59	05/29/2009	(745600)
60	06/08/2009	(771030)
61	08/28/2009	(747888)

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

Date: 08/31/2004 (359733) CN600671242
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2004 (359734) CN600671242
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2004 (386151) CN600671242
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2004 (386152) CN600671242
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 (386153) CN600671242
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2005 (444840) CN600671242
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: 02/28/2005 (444841) CN600671242
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: 04/30/2005 (444843) CN600671242
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2005 (444844) CN600671242
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2005 (444845) CN600671242
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2005 (444846) CN600671242
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 01/12/2006 (436136) CN600671242
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 317 317.4(a)(8)
30 TAC Chapter 317 317.7(l)
Description: Failure by the permittee to make a connection from the public drinking water supply to the wastewater treatment plant through an air gap or a backflow prevention device.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.2
Operational Requirements, No.1 Pg. 9 PERMIT
Description: Failure to properly operate and maintain all systems of collection, treatment, and disposal.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
30 TAC Chapter 317 317.6(c)(2)(G)
Operational Requirements, No. 1 Pg. 9 PERMIT
Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Moderate
Citation: TWC Chapter 26 26.121(a)
Description: Failure by the permittee to prevent the discharge of wastewater into or adjacent to water in the state without authorization from the Commission.
Failure by the permittee to prevent the discharge of wastewater into or adjacent to water in the state without authorization from the Commission.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)
Description: Failure by the permittee to maintain the required records and have them available for review during the investigation.

Self Report? NO Classification: Minor
Citation: 2D TWC Chapter 26, SubChapter A 26.176(a)
Operational Requirements, No. 1 Pg. 9 PERMIT
Description: Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 319, SubChapter A 319.5(e)
Monitoring & Rptng. Reqs., N.4 P.5 PERMIT
Description: Failure by the permittee to include additional pH measurements in the calculation of self-reported data.

Date: 01/31/2007 (550105) CN600671242
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2007 (585095) CN600671242

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

Date: 08/31/2007 (604472) CN600671242
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 (693159) CN600671242
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 (714385) CN600671242
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 (730353) CN600671242
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2009 (753575) CN600671242
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2009 (753576) CN600671242
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 FAIRFIELD
RN101607778**

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

AGREED ORDER DOCKET NO. 2009-1492-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Fairfield ("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 appear before the Commission and together stipulate that:

1. The City owns and operates a wastewater treatment facility located approximately 4,000 feet east of United States ("U.S.") Highway 75 and approximately 6,000 feet south of U.S. Highway 84 in Freestone 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. 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 September 2, 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 Nine Thousand Nine Hundred Seventy Dollars (\$9,970) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Nine Hundred Ninety-Four Dollars (\$1,994) 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. Seven Thousand Nine Hundred Seventy-Six Dollars (\$7,976) of the administrative penalty 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 Facility:
 - a. By June 21, 2009, rebuilt four aerators to address the dissolved oxygen and ammonia nitrogen issues at the Facility;
 - b. During June 2009, returned to compliance with the permitted effluent limits of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010168002; and
 - c. By September 11, 2009, submitted the discharge monitoring report ("DMR") for the monitoring period ending December 31, 2008.
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 Facility, the City is alleged to have:

1. Failed to comply with the permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010168002 Effluent Limitations and Monitoring Requirements Nos. 1 and 6, as documented during a record review on June 2, 2009, and shown in the following table:

EFFLUENT VIOLATION TABLE			
	DO Monthly Min.	NH ₃ -N Daily Avg. Conc.	NH ₃ -N Daily Max. Conc.
Months	Limit = 6.0 mg/L	Limit = 2.0 mg/L	Limit = 10 mg/L
6/30/2008	5.6	c	c
8/31/2008	5.3	c	c
12/31/2008	c	4.3	c
2/28/2009	c	6.9	16.5
DO = dissolved oxygen		Min. = minimum	
NH ₃ -N = ammonia nitrogen		Max. = maximum	
avg. = average		Conc. = concentration	
mg/L = milligrams per liter		c = compliant	

- Failed to timely submit the discharge monitoring report ("DMR") for the monitoring period ending December 31, 2008, by the 20th day of the following month, in violation of 30 TEX. ADMIN. CODE §§ 305.125(17) and 319.7(d), and TPDES Permit No. WQ0010168002, Monitoring and Reporting Requirements No. 1, as documented during a record review conducted on June 2, 2009.

III. DENIALS

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

IV. ORDERING PROVISIONS

- 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 Fairfield, Docket No. 2009-1492-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
- The City shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Seven Thousand Nine Hundred Seventy-Six Dollars (\$7,976) 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. 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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John S. Miller
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.

Roy W. Hill
Signature

2-02-10
Date

ROY W. HILL
MAYOR
Name (Printed or typed)
Authorized Representative of
City of Fairfield

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: 2009-1492-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Fairfield
Payable Penalty Amount:	Seven Thousand Nine Hundred Seventy-Six Dollars (\$7,976)
SEP Amount:	Seven Thousand Nine Hundred Seventy-Six Dollars (\$7,976)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Unauthorized Trash Dump Clean-Up
Location of SEP:	Freestone County

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

1. Project Description

A. Project

The Respondent shall contribute to the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of Resource Conservation and Development Areas, Inc. to be used for the RC&D Unauthorized Trash Dump Clean-Up Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to coordinate with city and/or county governmental officials regarding the clean up of sites where trash has been disposed of illegally. Eligible sites will be limited to those where a responsible party can not be identified and where there is no pre-existing obligation to clean up the site by the owner or the government. Additionally, reasonable efforts must have already been taken to prevent the dumping. SEP monies will be used to pay for the direct cost of collection and disposal of debris. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative costs. The SEP will be done in accordance with all 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 helping rid communities of the dangers and health threats associated with non-regulated trash dumps which contaminate air and water, and harbor disease carrying animals and insects.

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:

Texas Association of Resource Conservation and Development Areas, Inc.
1716 Briarcrest Drive, Suite 510
Bryan, Texas 77802-2700

3. Records and Reporting

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

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

4. Failure to Fully Perform

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

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

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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

