

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1803-MWD-E **TCEQ ID:** RN102092962 **CASE NO.:** 38655

RESPONDENT NAME: City of Palmer

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: City of Palmer, located approximately 0.4 mile south and 0.1 mile west of the intersection of Farm-to-Market Road 813 and Interstate Highway 45, Palmer, Ellis County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</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. Heather Brister, Enforcement Division, Enforcement Team 1, R-09, (254) 761-3034; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: The Honorable Lance Anglin, Mayor, City of Palmer, P.O. Box 489, Palmer, Texas 75152 Mr. Doug Young, City Administrator, City of Palmer, P.O. Box 489, Palmer, Texas 75152 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: September 2, 2009</p> <p>Date of NOE Relating to this Case: October 23, 2009</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>1) Failure to comply with permit effluent limits for dissolved oxygen, 5-day biochemical oxygen demand, total suspended solids, and total chlorine [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014795001, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6].</p> <p>2) Failure to timely submit the annual sludge report for the monitoring period ending July 31, 2008 by September 1, 2008 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0014795001, Sludge Provisions].</p>	<p>Total Assessed: \$9,430</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$9,430</p> <p>Total Paid to General Revenue: \$0</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification:</p> <p>This case involves a violation of a prior Agreed Order. When the Respondent failed to comply with the prior Agreed Order, the Respondent demonstrated an indifference to legal duty.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that on November 17, 2009, the Respondent submitted the annual sludge report to the TCEQ.</p> <p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to:</p> <p>a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that the annual sludge report is submitted to the TCEQ by September 1 of each year;</p> <p>b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision No. 2.a;</p> <p>c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0014795001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations; and</p> <p>d. The written certification of compliance required by Ordering Provision Nos. 2.b and 2.c shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance.</p>

Additional ID No(s): WQ0014795001

Attachment A
Docket Number: 2009-1803-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Palmer
Payable Penalty Amount:	Eleven Thousand Four Hundred Dollars (\$11,400)
SEP Amount:	Eleven Thousand Four Hundred Dollars (\$11,400)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. (RC&D)-Household Hazardous Waste Clean-Up
Location of SEP:	Ellis 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 the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide local residents with a means of properly disposing household hazardous wastes such as paint, thinners, pesticides, oil and gas, corrosive cleaners, and fertilizers in one day collection events. SEP monies will be used to pay for the associated labor, materials, and disposal costs. Citizens will not be charged disposal fees. The project is administered in accordance with TCEQ guidance on household hazardous waste and in compliance with federal, state, and local environmental laws and regulations. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative 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 a means of properly disposing household hazardous waste which might otherwise be disposed of in storm drains, the sewage system, or other means detrimental to the environment.

C. Minimum Expenditure

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

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	26-Oct-2009	Screening	2-Nov-2009	EPA Due	
	PCW	6-Jan-2010				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Palmer		
Reg. Ent. Ref. No.	RN102092962		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	38655	No. of Violations	2
Docket No.	2009-1803-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Heather Brister
		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

Culpability Enhancement **Subtotal 4**

Notes

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

PAYABLE PENALTY

Screening Date 2-Nov-2009

Docket No. 2009-1803-MWD-E

PCW

Respondent City of Palmer

Policy Revision 2 (September 2002)

Case ID No. 38655

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102092962

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

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)	21	105%
	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 judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 125%

>> Repeat Violator (Subtotal 3)

Yes

Adjustment Percentage (Subtotal 3) 25%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent self-reported 19 months of effluent quality violations, was issued two NOVs for violations that are considered to be same or similar, and received an Agreed Order containing denial language.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 150%

Screening Date 2-Nov-2009

Docket No. 2009-1803-MWD-E

PCW

Respondent City of Palmer

Policy Revision 2 (September 2002)

Case ID No. 38655

PCW Revision October 30, 2000

Reg. Ent. Reference No. RN102092962

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 905.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014795001, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6

Violation Description

Failed to comply with permit effluent limits, as documented during a record review conducted on September 2, 2009. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

A simplified model was used to evaluate 5-day biochemical oxygen demand, ammonia nitrogen, and flow to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Total chlorine residual, dissolved oxygen, and total suspended solids were also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 4 Number of violation days 274

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

Violation Base Penalty \$4,000

Four quarterly events are recommended.

Good Faith Efforts to Comply

	0.0% Reduction	
	Before NOV	NOV to EDCRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

\$0

Notes

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

Violation Subtotal \$4,000

Economic Benefit (EB) for this violation

Estimated EB Amount \$364

Statutory Limit Test

Violation Final Penalty Total \$9,200

This violation Final Assessed Penalty (adjusted for limits) \$9,200

Economic Benefit Worksheet

Respondent City of Palmer
Case ID No. 38655
Reg. Ent. Reference No. RN102092962
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

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)	\$3,500	1-Jun-2008	30-Jun-2010	2.08	\$364	n/a	\$364

Notes for DELAYED costs

Estimated cost to evaluate the cause of non-compliance and to make necessary adjustments at the Facility to achieve compliance with the permitted effluent limitations. Date Required is the initial month of noncompliance. Final Date is the anticipated 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

\$3,500

TOTAL

\$364

Screening Date 2-Nov-2009

Docket No. 2009-1803-MWD-E

PCW

Respondent City of Palmer

Policy Revision 2 (September 2002)

Case ID No. 38655

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102092962

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0014795001, Sludge Provisions

Violation Description Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2008 by September 1, 2008, as documented during a record review conducted on September 2, 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			x	1%

Matrix Notes

At least 30% of the rule requirement was not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 62

mark only one with an x	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	
	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

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

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1

Violation Final Penalty Total \$230

This violation Final Assessed Penalty (adjusted for limits) \$230

Economic Benefit Worksheet

Respondent City of Palmer
Case ID No. 38655
Reg. Ent. Reference No. RN102092962
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	1-Sep-2009	17-Nov-2009	0.21	\$1	n/a	\$1

Notes for DELAYED costs

The estimated cost to submit the annual sludge report to the Enforcement Division. Date Required is the date of noncompliance. 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

\$100

TOTAL

\$1

Effluent Limit Violation Table

table rev.

Respondent: City of Palmer
 ID Number(s): WQ0014795001
 Docket Number: 2009-1803-MWD-E
 Env. Coordinator: Heather Brister

Corresponds to Violation Number: 1

EFFLUENT PARAMETER						
<i>Permit Limit</i>						
	Dissolved Oxygen Minimum Concentration: 4.0 Milligrams per Liter	5-Day Biochemical Oxygen Demand Daily Average Concentration: 10 Milligrams per Liter	5-Day Biochemical Oxygen Demand Single Grab Concentration: 35 Milligrams per Liter	Total Suspended Solids Daily Average Concentration: 15 Milligrams per Liter	Total Suspended Solids Single Grab Concentration: 60 Milligrams per Liter	Total Chlorine Residual Maximum Concentration: 4.0 Milligrams per Liter
<i>Month/Year</i>						
Jun-08	c	11	c	18	c	c
Jul-08	c	c	c	20	c	c
Sep-08	3	c	c	c	c	c
Nov-08	c	12	c	17	c	c
Dec-08	c	12	c	17	c	c
Jan-09	c	c	c	17	c	c
Feb-09	c	22	58	28	66	c
Mar-09	c	c	c	19	c	c
Apr-09	c	c	c	c	c	5.2

c - compliant

Compliance History Report

Customer/Respondent/Owner-Operator:	CN800637441	City of Palmer	Classification: AVERAGE	Rating: 35.52
Regulated Entity:	RN102092962	CITY OF PALMER	Classification: AVERAGE	Site Rating: 35.52
ID Number(s):	WASTEWATER		PERMIT	TX0026603
	WASTEWATER		PERMIT	WQ0014795001

Location: Located approximately 0.40 mile south and 0.10 mile west of the Intersection of Farm-to-Market Road 813 and Interstate Highway 45 in the City of Palmer in Ellis County, Texas

TCEQ Region: REGION 04 - DFW METROPLEX
 Date Compliance History Prepared: October 29, 2009
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: October 29, 2004 to October 29, 2009
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Heather Brister Phone: 254-761-3034

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: YES | |

Components (Multimedia) for the Site :

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

- Effective Date: **04/28/2008** ADMINORDER 2007-0283-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 Limitations and Monitoring Requ PERMIT
 Description: Failure to comply with the permitted effluent limits.

- Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)
 Rqmt Prov: Sludge Provisions, Sec. II (F) Reporting PERMIT
 Description: Failure to submit annual sludge disposal report by September 1 of each year as required by the permit.

- Classification: Major
 Citation: 30 TAC Chapter 305, SubChapter C 305.42(a)
 TWC Chapter 26 26.121
 Description: Failure to maintain authorization to discharge wastewater.

- Classification: Moderate
 Citation: 30 TAC Chapter 319, SubChapter A 319.7(d)
 Rqmt Prov: Monitoring and Reporting Requirements PERMIT
 Description: Failure to submit discharge monitoring reports.

- Classification: Moderate
 Citation: 30 TAC Chapter 317 317.7(e)
 Description: Failure to completely fence the equalization basin and post warning signs.

- 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. (CGEDS Inv. Track. No.)

- 1 11/18/2004 (354835)
- 2 12/20/2004 (383369)
- 3 01/14/2005 (383370)
- 4 02/14/2005 (383367)
- 5 03/09/2005 (383368)

6 05/03/2005 (421192)
7 06/02/2005 (421193)
8 06/23/2005 (421194)
9 07/22/2005 (442177)
10 08/15/2005 (442178)
11 09/29/2005 (442179)
12 12/09/2005 (471109)
13 12/09/2005 (471110)
14 12/30/2005 (471111)
15 03/27/2006 (454743)
16 02/23/2007 (537950)
17 04/23/2007 (620880)
18 05/24/2007 (620881)
19 05/06/2009 (769236)
20 05/06/2009 (769237)
21 05/06/2009 (769238)
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39 05/06/2009 (769257)
40 05/06/2009 (769258)
41 05/06/2009 (769259)
42 05/06/2009 (769260)
43 05/20/2009 (769245)
44 06/03/2009 (743879)
45 08/25/2009 (767028)
46 10/23/2009 (774970)

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

Date: **11/30/2004** (383369) **CN600637441**
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** (383367) **CN600637441**
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** (383368) **CN600637441**
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** (442177) **CN600637441**
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: **07/31/2005** (442178) **CN600637441**
Self Report? YES Classification: Moderate

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

Date: 09/30/2005 (471109) **CN600637441**
Self Report? YES **Classification:** Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2005 (471110) **CN600637441**
Self Report? YES **Classification:** Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2005 (471111) **CN600637441**
Self Report? YES **Classification:** Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 03/27/2006 (454743) **CN600637441**
Self Report? NO **Classification:** Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.4(i)
 30 TAC Chapter 317 317.4(k)
Description: Failure to remove the sludge from the sludge lagoon in a timely manner.

Self Report? NO **Classification:** Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: Failure to remove sludge from the sludge lagoon.

Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet minimum chlorine residual limit.

Self Report? NO **Classification:** Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Effluent Limitations and Monitoring Requi PERMIT
Description: Failure to comply with the permitted effluent limits.

Self Report? NO **Classification:** Moderate
Citation: TWC Chapter 26 26.121
Description: Failed to maintain authorization to discharge wastewater.

Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)
 Sludge Provisions, Sec. II (F) Reporting PERMIT
Description: Failure to submit annual sludge disposal report by September 1 of each year as required by the permit.

Date: 03/31/2008 (769242) **CN600637441**
Self Report? YES **Classification:** Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: **04/30/2008** (769244) CN600637441
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** (769249) CN600637441
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: **07/31/2008** (769251) CN600637441
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: **09/30/2008** (769254) CN600637441
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: **11/30/2008** (769258) CN600637441
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** (769260) CN600637441
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: **01/31/2009** (769238) CN600637441
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** (769240) CN600637441
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** (769243) CN600637441
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: **04/30/2009** (769245) CN600637441
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: 06/03/2009 (743879) CN600637441

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(5)
WQ0014795001 PERMIT

Description: Failure to provide provisions for the City's lift stations to operate during an electrical power failure.

Self Report? NO Classification: Major

Citation: 30 TAC Chapter 305, SubChapter F 305.125(11)(B)
30 TAC Chapter 305, SubChapter F 305.125(11)(C)

Description: Failure to submit the annual sludge report by the deadline.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)

Description: Failure to maintain the chlorine room.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
WQ0014795-001 PERMIT

Description: Failure to maintain the chlorine contact chamber.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 317 317.7(e)

Description: Failure to adequately fence the plant facilities.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0014795-001 PERMIT

Description: Failure to meet the total chlorine residual limitations during the investigation.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0014795-001 PERMIT

Description: Failure to attain a percent error of plus or minus 10% between the recorded and calculated flows.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
WQ0014795-001 PERMIT

Description: Failure to keep adequate operations and maintenance records (O&M) and sampling records.

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)
WQ0014795-001 PERMIT

Description: Failure to submit DMRs as required.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.7(a)
30 TAC Chapter 319, SubChapter A 319.7(c)
WQ0014795-001 PERMIT

Description: Failure to provide quality control data and maintenance records for analytical equipment.

Self Report? NO Classification: Minor

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

WQ0014795-001 PERMIT

Description: Failure to properly conduct the total chlorine residual analysis.

- | | | |
|----|---|-----|
| 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 PALMER
RN102092962**

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

AGREED ORDER DOCKET NO. 2009-1803-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Palmer ("the City") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the City presented this agreement to the Commission.

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

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

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

I. FINDINGS OF FACT

1. The City owns and operates a wastewater treatment plant located approximately 0.4 mile south and 0.1 mile west of the intersection of Farm-to-Market Road 813 and Interstate Highway 45 in Palmer, Ellis County, Texas (the "Facility").

2. The City has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review on September 2, 2009, TCEQ staff documented the following effluent values based on the self-reported discharge monitoring reports:

EFFLUENT PARAMETER						
Permit Limit						
Month/Year	Dissolved Oxygen Minimum Concentration 4.0 Milligrams per Liter	5-Day Biochemical Oxygen Demand Daily Average Concentration 10 Milligrams per Liter	5-Day Biochemical Oxygen Demand Single Grab Concentration 35 Milligrams per Liter	Total Suspended Solids Daily Average Concentration 5 Milligrams per Liter	Total Suspended Solids Single Grab Concentration 60 Milligrams per Liter	Total Chlorine Residual Maximum Concentration 4.0 Milligrams per Liter
Jun-08	c	11	c	18	c	c
Jul-08	c	c	c	20	c	c
Sep-08	3	c	c	c	c	c
Nov-08	c	12	c	17	c	c
Dec-08	c	12	c	17	c	c
Jan-09	c	c	c	17	c	c
Feb-09	c	22	58	28	66	c
Mar-09	c	c	c	19	c	c
Apr-09	c	c	c	c	c	5.2

c - compliant

4. During a record review on September 2, 2009, TCEQ staff documented that the annual sludge report for the monitoring period ending July 31, 2008, had not been submitted to the TCEQ by September 1, 2008.
5. The City received notice of the violations on October 28, 2009.
6. The Executive Director recognizes that on November 17, 2009, the City submitted the annual sludge report to the TCEQ.

II. CONCLUSIONS OF LAW

1. The City is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the City failed to comply with permit effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014795001, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6.

3. As evidenced by Findings of Fact No. 4, the City failed to timely submit the annual sludge report for the monitoring period ending July 31, 2008 by September 1, 2008, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0014795001, Sludge Provisions.
4. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the City for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Nine Thousand Four Hundred Thirty Dollars (\$9,430) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Nine Thousand Four Hundred Thirty Dollars (\$9,430) shall be conditionally offset by the City's completion of a Supplemental Environmental Project ("SEP").

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The City is assessed an administrative penalty in the amount of Nine Thousand Four Hundred Thirty Dollars (\$9,430) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the City's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Palmer, Docket No. 2009-1803-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The City shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 5 above, Nine Thousand Four Hundred Thirty Dollars (\$9,430) of the assessed administrative penalty shall be offset with the condition that the City implements 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. It is further ordered that the City shall undertake the following technical requirements:
- a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that the annual sludge report is submitted to the TCEQ by September 1 of each year;
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision Nos. 3.a, in accordance with Ordering Provision No. 3.d below;
 - c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0014795001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations; and
 - d. The written certification of compliance required by Ordering Provision Nos. 3.b and 3.c shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Dallas/Fort Worth Regional Office
Texas Commission on Environmental Quality
2309 Gravel Drive
Fort Worth, Texas 76118-6951

4. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the City fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the City's failure to comply is not a violation of this Agreed Order. The City shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The City shall notify the Executive Director within seven days after the City becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the City if the Executive Director determines that the City has not complied with one or more of the terms or conditions in this Agreed Order.
8. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
9. This Agreed Order, issued by the Commission, shall not be admissible against the City in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
10. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
11. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date 3/30/2010

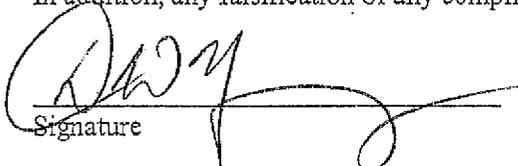
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Palmer. I am authorized to agree to the attached Agreed Order on behalf of the City of Palmer, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment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

I understand that by entering into this Agreed Order, the City of Palmer waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

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

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



Signature

Date 2-10-10

Doug Young, City Administrator

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

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: 2009-1803-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Palmer
Payable Penalty Amount:	Eleven Thousand Four Hundred Dollars (\$11,400)
SEP Amount:	Eleven Thousand Four Hundred Dollars (\$11,400)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. (RC&D)-Household Hazardous Waste Clean-Up
Location of SEP:	Ellis 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 the SEP Amount to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide local residents with a means of properly disposing household hazardous wastes such as paint, thinners, pesticides, oil and gas, corrosive cleaners, and fertilizers in one day collection events. SEP monies will be used to pay for the associated labor, materials, and disposal costs. Citizens will not be charged disposal fees. The project is administered in accordance with TCEQ guidance on household hazardous waste and in compliance with federal, state, and local environmental laws and regulations. All dollars contributed will be used solely for the direct cost of the project and no portion will be spent on administrative 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 a means of properly disposing household hazardous waste which might otherwise be disposed of in storm drains, the sewage system, or other means detrimental to the environment.

C. Minimum Expenditure

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

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.

