

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-0113-MWD-E **TCEQ ID:** RN102319126 **CASE NO.:** 39030

RESPONDENT NAME: Texas Department of Criminal Justice

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"/> IMMEDIATE 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: TDCH Central Unit, located approximately 3,500 feet northwest of the intersection of State Highway 6 and United States Highway 90A, Fort Bend County</p> <p>TYPE OF OPERATION: Domestic wastewater treatment system</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 June 28, 2010. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223 TCEQ Enforcement Coordinator: Mr. Harvey Wilson, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-0321; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Frank Inmon, Director of Facilities, Texas Department of Criminal Justice, P.O. Box 4011, Huntsville, Texas 77342 Mr. Jerry McGinty, Chief Financial Officer, Texas Department of Criminal Justice, P.O. Box 4011, Huntsville, Texas 77342 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: October 27, 2009</p> <p>Date of NOV/NOE Relating to this Case: January 15, 2010 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>Failure to comply with permit effluent limits for total suspended solids and total ammonia nitrogen [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010986001 Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$1,880</p> <p>Total Deferred: \$376 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$1,504</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>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent replaced the clarifier on July 20, 2009, and returned to compliance with permit limits by August 31, 2009.</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): WQ0010986001

Attachment A
Docket Number: 2010-0113-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Texas Department of Criminal Justice
Penalty Amount: One Thousand Five Hundred Four Dollars (\$1,504)
SEP Offset Amount: One Thousand Five Hundred Four Dollars (\$1,504)
Type of SEP: Pre-approved
Third-Party Recipient: Keep Texas Beautiful - Stop Trashing Texas Program
Location of SEP: Fort Bend County

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

1. Project Description

A. Project

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

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

B. Environmental Benefit

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

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

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

3. Records and Reporting

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

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount. In the event of incomplete performance, the Respondent shall submit a check for any remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the docket number of the case, and shall send it to:

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	11-Jan-2010	Screening	13-Jan-2010	EPA Due	5-Mar-2010
	PCW	21-Jan-2010				

RESPONDENT/FACILITY INFORMATION

Respondent	Texas Department of Criminal Justice		
Reg. Ent. Ref. No.	RN102319126		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	39030	No. of Violations	1
Docket No.	2010-0113-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Harvey Wilson
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit	Minimum \$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1:** \$2,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 19.0% Enhancement **Subtotals 2, 3, & 7** \$380

Notes: An enhancement is recommended due to three self-reported months of effluent violations and two NOV's for non-similar violations.

Culpability No 0.0% Enhancement **Subtotal 4** \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** \$500

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

Total EB Amounts: \$17,898
 Approx. Cost of Compliance: \$180,160
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** \$1,880

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount \$1,880

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** \$1,880

DEFERRAL 20.0% Reduction **Adjustment** -\$376

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 \$1,504

Screening Date 13-Jan-2010

Docket No. 2010-0113-MWD-E

PCW

Respondent Texas Department of Criminal Justice

Policy Revision 2 (September 2002)

Case ID No. 39030

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102319126

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

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)	3	15%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 19%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

An enhancement is recommended due to three self-reported months of effluent violations and two NOVs for non-similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 19%

Screening Date 13-Jan-2010

Docket No. 2010-0113-MWD-E

PCW

Respondent Texas Department of Criminal Justice

Policy Revision 2 (September 2002)

Case ID No. 39030

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN102319126

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

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. WQ0010986001 Effluent Limitations and Monitoring Requirements No. 1

Violation Description

Failed to comply with permit effluent limits as depicted in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

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. Total suspended solids were also considered. As a result of these 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 \$9,000

\$1,000

Violation Events

Number of Violation Events 2

153 Number of violation days

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,000

Two quarterly events are recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$500

Extraordinary

Before NOV NOV to EDPR/Settlement Offer

Ordinary

N/A

(mark with x)

Notes

The Responded returned to compliance by August 31, 2009.

Violation Subtotal \$1,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$5,286

Violation Final Penalty Total \$1,880

This violation Final Assessed Penalty (adjusted for limits) \$1,880

Economic Benefit Worksheet

Respondent Texas Department of Criminal Justice
Case ID No. 39030
Reg. Ent. Reference No. RN102319126
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

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment	\$180,160	31-Mar-2009	31-Aug-2009	0.42	\$252	\$5,035	\$5,286
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

The actual cost of replacing the clarifier. Date Required is the first date 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)

	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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

\$180,160

TOTAL

\$5,286

Texas Department of Criminal Justice
 RN102319126
 Docket No. 2010-0113-MWD-E; WQ0010986001
 Violation Table

	Total Suspended Solids, Daily Average, 15 mg/L	Total Suspended Solids, Single Grab, 60 mg/L	Total Suspended Solids, Daily Average (Loading) 56 lbs/day	Total Ammonia Nitrogen, Single Grab, 15 mg/L
March 2009	20.45	C	84.79	C
May 2009	C	C	C	15.2
July 2009	60.18	208	138.77	C
mg/L = milligrams per Liter lbs/day = pounds per day C = compliant				

Compliance History Report

Customer/Respondent/Owner-Operator:	CN601550650	Texas Department of Criminal Justice	Classification: AVERAGE	Rating: 2.71
Regulated Entity:	RN102319126	TDCJ CENTRAL UNIT	Classification: Average	Site Rating: 2.50

ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	48479
	WASTEWATER	PERMIT	WQ0010986001
	WASTEWATER	EPA ID	TX0031551
	WASTEWATER	PERMIT	TX0031551
	PUBLIC WATER SYSTEM/SUPPLY	REGISTRATION	0790084
	AIR NEW SOURCE PERMITS	REGISTRATION	76391
	AIR NEW SOURCE PERMITS	REGISTRATION	53594
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	FG0199A
	AIR NEW SOURCE PERMITS	REGISTRATION	42763
	WASTEWATER LICENSING	LICENSE	WQ0010986001

Location: Approximately 3,500 feet northwest of the intersection of State Highway 6 and U. S. Highway 90A, Fort Bend County, Texas

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: January 22, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: January 21, 2005 to January 21, 2010

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

Name: Harvey Wilson Phone: 239 - 0321

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

Components (Multimedia) for the Site :

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

N/A

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

N/A

- C. Chronic excessive emissions events.

N/A

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

1	05/12/2005	(421584)
2	05/31/2005	(421583)
3	12/20/2005	(440181)
4	01/19/2006	(452365)
5	03/14/2006	(471688)
6	04/19/2006	(500251)
7	08/17/2006	(487179)
8	10/17/2006	(515040)

9	03/05/2007	(579491)
10	03/29/2007	(579492)
11	02/15/2008	(673290)
12	05/09/2008	(654854)
13	02/20/2009	(751730)
14	03/18/2009	(751731)
15	01/15/2010	(780449)

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

Date: 08/16/2006 (487179) CN601550650
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
 Description: Failure to properly maintain the regulated entities by not sealing the hole on the #2 well header at central unit plant.

Date: 10/03/2006 (515040) CN601550650
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)
 Description: Failure to properly maintain the regulated entities by not sealing the hole on the #2 well header at central unit plant.

Date: 03/31/2009 CN601550650
 Self Report? YES Classification: Moderate
 Citation: TWC Chapter 26 26.121(a)
 30 TAC Chapter 305.125(1)
 Description: Failure to comply with effluent limits in permit

Date: 05/31/2009 CN601550650
 Self Report? YES Classification: Moderate
 Citation: TWC Chapter 26 26.121(a)
 30 TAC Chapter 305.125(1)
 Description: Failure to comply with effluent limits in permit

Date: 07/31/2009 CN601550650
 Self Report? YES Classification: Moderate
 Citation: TWC Chapter 26 26.121(a)
 30 TAC Chapter 305.125(1)
 Description: Failure to comply with effluent limits in permit

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
TEXAS DEPARTMENT OF
CRIMINAL JUSTICE
RN102319126

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2010-0113-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 Texas Department of Criminal Justice ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a domestic wastewater treatment system located approximately 3,500 feet northwest of the intersection of State Highway 6 and United States Highway 90A in Fort Bend County, Texas (the "Facility").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about January 20, 2010.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of One Thousand Eight Hundred Eighty Dollars (\$1,880) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Three Hundred Seventy-Six Dollars (\$376) is deferred contingent upon the Respondent'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 Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. One Thousand Five Hundred Four Dollars (\$1,504) shall be conditionally offset by the Respondent'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 Respondent 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 Respondent replaced the clarifier on July 20, 2009, and returned to compliance with permit limits by August 31, 2009.
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 Respondent 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 Respondent is alleged to have failed to comply with permit effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010986001 Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on October 27, 2009 and depicted in the table below:

Violation Table

	Total Suspended Solids, Daily Average 15 mg/L	Total Suspended Solids, Single Grab 60 mg/L	Total Suspended Solids, Daily Average Loading 56 lbs/day	Total Ammonia as Nitrogen, Single Grab 15 mg/L
March 2009	20.45	C	84.79	C
May 2009	C	C	C	15.2
July 2009	60.18	208	138.77	C
mg/L = milligrams per Liter lbs/day = pounds per day C = compliant				

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent'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: Texas Department of Criminal Justice, Docket No. 2010-0113-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 Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, One Thousand Five Hundred Four Dollars (\$1,504) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent'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 Respondent. The Respondent 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 Respondent 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 Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent 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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent 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 Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this

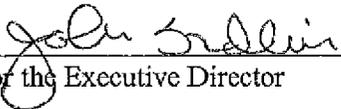
Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

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 Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, 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



For the Executive Director

Date 6/7/2010

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

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

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

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



Signature

Date 4/13/10

JERRY MCGINTY

Name (Printed or typed)
Authorized Representative of
Texas Department of Criminal Justice

CHIEF FINANCIAL OFFICER

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: 2010-0113-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Texas Department of Criminal Justice
Penalty Amount:	One Thousand Five Hundred Four Dollars (\$1,504)
SEP Offset Amount:	One Thousand Five Hundred Four Dollars (\$1,504)
Type of SEP:	Pre-approved
Third-Party Recipient:	Keep Texas Beautiful - Stop Trashing Texas Program
Location of SEP:	Fort Bend County

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

1. Project Description

A. Project

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

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

B. Environmental Benefit

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

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the Agreed Order with the contribution to:

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

3. Records and Reporting

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

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Offset Amount. In the event of incomplete performance, the Respondent shall submit a check for any remaining amount due made payable to "Texas Commission on Environmental Quality" with the notation "SEP Refund" and the docket number of the case, and shall send it to:

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

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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

