

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2009-1941-MWD-E **TCEQ ID:** RN101549061 **CASE NO.:** 38786

RESPONDENT NAME: City of Dallas

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 Dallas Central WWTF, located on the west bank of the Trinity River at 1020 Sargent Road, and a collection system main line located near the 4000 block of Cochran Chapel Road, Dallas, Dallas County</p> <p>TYPE OF OPERATION: Wastewater treatment facility with an associated collection system main line</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 19, 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: Mr. Samuel Short, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-5363; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Chris Kaakaty, Assistant Director Water Utilities, City of Dallas, 1500 Marilla Street, Dallas, Texas 75201 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input 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: July 9 and December 2, 2009</p> <p>Date of NOV/NOE Relating to this Case: November 20, 2009 (NOE)</p> <p>Background Facts: This was a routine investigation and a records review.</p> <p>According to a review conducted on June 10, 2010, the Respondent has paid the past due fees cited in this Order.</p> <p>WATER</p> <p>1) Failure to prevent the unauthorized discharge of wastewater into water in the state. Specifically, on July 9, 2009, a structural failure of a 10-inch wastewater collection line occurred in the bottom of the creek located between 4015 and 4011 Cochran Chapel Road and approximately 360 gallons of sewage was discharged into the creek killing an estimated 22 fish [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010060001, Permit Conditions 2.g].</p> <p>2) Failure to pay outstanding underground storage tank fees and associated late fees for TCEQ Financial Account No. 0000476U for fiscal year 2009 [TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 334.22(a)].</p>	<p>Total Assessed: \$9,100</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$9,100</p> <p>Total Paid (Due) to General Revenue: \$0</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: Environmental receptors have been exposed to pollutants which exceed levels that are protective.</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that, on July 10, 2009, the Respondent completed the repairs on the wastewater collection line and flushed the creek.</p> <p>Ordering Provisions:</p> <ol style="list-style-type: none"> 1. The Order will require the Respondent to implement and complete a supplemental Environmental Project (SEP). (See SEP Attachment A) 2. The Order will also require the Respondent to, within 30 days after the effective date of this Agreed Order, submit payment for all outstanding fees, including any associated penalties and interest.

Additional ID No(s): WQ0010060001

Attachment A
Docket Number: 2009-1941-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Dallas
Penalty Amount: Nine Thousand One Hundred Dollars (\$9,100)
SEP Offset Amount: Nine Thousand One Hundred Dollars (\$9,100)
Type of SEP: Pre-approved
Third-Party Recipient: Keep Texas Beautiful - Stop Trashing Texas Program
Location of SEP: Dallas 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:

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 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	23-Nov-2009	Screening	2-Dec-2009	EPA Due	
PCW	17-Dec-2009				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Dallas		
Reg. Ent. Ref. No.	RN101549061		
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	38786	No. of Violations	2
Docket No.	2009-1941-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Samuel Short
		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**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History Enhancement **Subtotal 2, 3, & 7**

Notes: An enhancement is recommended for having three NOV's for same or similar violations and one NOV for non-similar violations; and a reduction is recommended for having one notice of Intent within the last five years.

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: No deferral is recommended for Findings Orders.

PAYABLE PENALTY

Screening Date 2-Dec-2009

Docket No. 2009-1941-MWD-E

PCW

Respondent City of Dallas

Policy Revision 2 (September 2002)

Case ID No. 38786

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101549061

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

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	1	2%
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)	1	-1%
	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) 16%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

An enhancement is recommended for having three NOVs for same or similar violations and one NOV for non-similar violations; and a reduction is recommended for having one notice of intent within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 16%

Screening Date 2-Dec-2009

Docket No. 2009-1941-MWD-E

PCW

Respondent City of Dallas

Policy Revision 2 (September 2002)

Case ID No. 38786

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101549061

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

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. WQ0010080001, Permit Conditions 2.g.

Violation Description

Failed to prevent the unauthorized discharge of wastewater into water in the state, as documented during an investigation conducted on July 9, 2009. Specifically, on July 9, 2009, a structural failure of a 10-inch wastewater collection line occurred in the bottom of the creek located between 4015 and 4011 Cochran Chapel Road and approximately 380 gallons of sewage was discharged into the creek killing an estimated 22 fish.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	x			50%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 2 Number of violation days 2

daily	x
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$10,000

Two daily events are recommended from the date the discharge was first documented, July 9, 2009, to the date in which the Respondent returned to compliance, July 10, 2009.

Good Faith Efforts to Comply

	25.0% Reduction	
	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes The Respondent returned to compliance on July 10, 2009.

\$2,500

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Estimated EB Amount \$0

Statutory Limit Test

Violation Final Penalty Total \$9,100

This violation Final Assessed Penalty (adjusted for limits) \$9,100

Economic Benefit Worksheet

Respondent City of Dallas
Case ID No. 38786
Reg. Ent. Reference No. RN101549061
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
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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)	\$2,500	9-Jul-2009	10-Jul-2009	0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost to repair the wastewater collection line and to flush the creek. Date required is the date the discharge was first documented and the 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

\$2,500

TOTAL

\$0

Screening Date 2-Dec-2009

Docket No. 2009-1941-MWD-E

PCW

Respondent City of Dallas

Policy Revision 2 (September 2002)

Case ID No. 38786

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101549061

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 2

Rule Cite(s)

Tex. Water Code § 5.702 and 30 Tex. Admin. Code § 334.22(a)

Violation Description

Failed to pay outstanding underground storage tank ("UST") fees and associated late fees for TCEQ Financial Account No. 0000476U for fiscal year 2009.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Harm			Percent
		Major	Moderate	Minor	
					0%

Adjustment \$10,000

\$0

Violation Events

Number of Violation Events [] Number of violation days []

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

Violation Base Penalty \$0

No additional administrative penalty was calculated for this violation as penalties and interest will be assessed on the next fee billing.

Good Faith Efforts to Comply

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

\$0

Notes

Violation Subtotal \$0

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$0

This violation Final Assessed Penalty (adjusted for limits) \$0

Economic Benefit Worksheet

Respondent City of Dallas
Case ID No. 38786
Reg. Ent. Reference No. RN101549061
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)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

N/A

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

N/A

Approx. Cost of Compliance

\$0

TOTAL

\$0

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600331730	City of Dallas	Classification: AVERAGE	Rating: 3.21
Regulated Entity:	RN101549061	CITY OF DALLAS CENTRAL WWTF	Classification: AVERAGE	Site Rating: 0.18
ID Number(s):	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	DB5175W	
	WASTEWATER	PERMIT	WQ0010060001	
	WASTEWATER	PERMIT	TPDES0047830	
	WASTEWATER	PERMIT	TX0047830	
	PRETREATMENT	PERMIT	WQ0010060001	
	PRETREATMENT	EPA ID	TX0047830000	
	WASTEWATER LICENSING	LICENSE	WQ0010060001	
Location:	LOCATED ON THE WEST BANK OF THE TRINITY RIVER AT 1020 SARGENT ROAD, DALLAS, TX			
TCEQ Region:	REGION 04 - DFW METROPLEX			
Date Compliance History Prepared:	December 02, 2009			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	December 02, 2004 to December 02, 2009			

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

Name: Samuel Short Phone: (512) 239-5363

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 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	12/16/2004	(356353)
2	02/19/2005	(384210)
3	02/19/2005	(384212)
4	03/02/2005	(349441)
5	03/07/2005	(346060)
6	03/16/2005	(384211)
7	04/05/2005	(375741)
8	05/17/2005	(580898)
9	05/17/2005	(580904)
10	06/14/2005	(580901)
11	08/17/2005	(580907)
12	09/15/2005	(580909)
13	10/14/2005	(580911)
14	11/15/2005	(580913)
15	11/15/2005	(580917)
16	12/19/2005	(580915)
17	02/15/2006	(580892)

18	02/15/2006	(580896)
19	03/14/2006	(580894)
20	05/17/2006	(580899)
21	06/08/2006	(464287)
22	06/08/2006	(481621)
23	06/19/2006	(580902)
24	07/17/2006	(580905)
25	08/17/2006	(580908)
26	09/18/2006	(580910)
27	10/17/2006	(580912)
28	11/15/2006	(580914)
29	11/15/2006	(580918)
30	12/14/2006	(580916)
31	02/09/2007	(539855)
32	03/16/2007	(580895)
33	03/31/2007	(580893)
34	04/17/2007	(580897)
35	05/17/2007	(580900)
36	06/18/2007	(580903)
37	07/16/2007	(580906)
38	08/24/2007	(608082)
39	09/14/2007	(608083)
40	10/17/2007	(608084)
41	11/15/2007	(712831)
42	01/02/2008	(712832)
43	01/15/2008	(612642)
44	01/16/2008	(712833)
45	02/14/2008	(712822)
46	03/18/2008	(639347)
47	03/19/2008	(712823)
48	04/18/2008	(712824)
49	05/16/2008	(712825)
50	05/28/2008	(646393)
51	06/17/2008	(712826)
52	07/14/2008	(712827)
53	08/15/2008	(712828)
54	08/29/2008	(689544)
55	08/29/2008	(699746)
56	09/17/2008	(712829)
57	09/17/2008	(712830)
58	09/17/2008	(712834)
59	10/30/2008	(702549)
60	11/18/2008	(729030)
61	12/18/2008	(752187)
62	02/17/2009	(752183)
63	02/17/2009	(752185)
64	02/17/2009	(752186)
65	03/18/2009	(752184)
66	04/17/2009	(742822)
67	07/20/2009	(748298)
68	11/20/2009	(782589)

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

Date: 02/23/2005 (346060) CN600331730
 Self Report? NO Classification Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 TWC Chapter 26 26.121
 TWC Chapter 26 26.121(a)
 TWC Chapter 26 26.121(a)(1)
 TWC Chapter 26 26.121(a)(2)

TWC Chapter 26 26.121(a)(3)
TWC Chapter 26 26.121(b)
TWC Chapter 26 26.121(c)
TWC Chapter 26 26.121(d)
TWC Chapter 26 26.121(e)

Description: Failure to prevent the discharge of sewage in the collection system.

Date: 08/20/2008 (699746) CN600331730

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 315, SubChapter A 315.1
40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(1)(iii)(B)

Description: The control authority (CA) failed to include the applicable categorical effluent limits in the permits issued to four significant industrial users (SIUs). The CA failed to include all the approved and adopted technically based local limits and sampling method requirements for oil and grease in all the SIU permits whose files were reviewed.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 315, SubChapter A 315.1
40 CFR Chapter 403, SubChapter N, PT 403 403.12(g)(5)
40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)(vii)

Description: The CA failed to complete inspection reports in a timely manner for some SIU inspections conducted during 2006-07; failed to conduct annual SIU inspections with sufficient care to verify production information; failed to document the sampling technique and sample type used for the pollutants sampled at SIUs to produce legally defensible data; failed to adequately review laboratory reports to determine that samples collected from 7/1/06-1/14/08, were not analyzed with 40 CFR Part 136 methods.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 315, SubChapter A 315.1
40 CFR Chapter 403, SubChapter N, PT 403 403.12(g)(5)
40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)(iv)
40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(5)(ii)

Description: The CA failed to adequately review the laboratory reports submitted by Consolidated Casting to identify that the samples for oil and grease were not collected using the appropriate sample type and did not issue an enforcement action for this violation.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 315, SubChapter A 315.1
40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(2)(v)

Description: The CA failed to sample and analyze the wastewater discharged by Dallas Air motive (outfalls 002, 004, 006) to determine compliance with the 29 regulated total toxic organic (TTO) pollutants and failed to sample and analyze the wastewater discharged by Tamko Building Products, Inc. to determine compliance with the CA's adopted TBLs during the 2006-07 pretreatment year.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 315, SubChapter A 315.1
40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(5)(ii)

Description: The CA failed to escalate formal enforcement actions against Al-Kel Alliance and Sanden Vendo according to the CA's approved enforcement response plan (ERP) for numerous and continuous effluent violations since July 2006.

Date: 10/23/2008 (702549)

Self Report? NO Classification: Moderate

Citation: TWC Chapter 26 26.121

Description: Failure to prevent an unauthorized discharge.

Date: 10/31/2008 (729030) CN600331730

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.

Notice of Intent Date: 01/16/2008 (636275)

No DOV Associated

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 DALLAS
RN101549061**

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

AGREED ORDER DOCKET NO. 2009-1941-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 Dallas (“the City”) under the authority of TEX. WATER CODE chs. 5, 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 facility located on the west bank of the Trinity River at 1020 Sargent Road with an associated collection system main line located near the 4000 block of Cochran Chapel Road in Dallas, Dallas County, Texas (the “Facility”).

2. The City has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation on July 9, 2009, TCEQ staff documented that a structural failure of a 10-inch wastewater collection line occurred in the bottom of the creek located between 4015 and 4011 Cochran Chapel Road and approximately 360 gallons of sewage was discharged into the creek killing an estimated 22 fish.
4. During an record review on December 2, 2009, TCEQ staff documented outstanding underground storage tank ("UST") fees and associated late fees for TCEQ Financial Account No. 0000476U for fiscal year 2009.
5. The City received notice of the violations on November 25, 2009.
6. The Executive Director recognizes that, on July 10, 2009, the City completed the repairs on the wastewater collection line and flushed the creek.

II. CONCLUSIONS OF LAW

1. The City is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the City failed to prevent the unauthorized discharge of wastewater into water in the state, 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. WQ0010060001, Permit Conditions 2.g.
3. As evidenced by Findings of Fact No. 4, the City failed to pay outstanding UST fees and associated late fees for TCEQ Financial Account No. 0000476U for fiscal year 2009, in violation of TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 334.22(a).
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 One Hundred Dollars (\$9,100) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Nine Thousand One Hundred Dollars (\$9,100) shall be conditionally offset by 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 One Hundred Dollars (\$9,100) 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 Dallas, Docket No. 2009-1941-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 One Hundred Dollars (\$9,100) of the assessed administrative penalty shall be offset with the condition that the City implement the SEP defined in Attachment A, incorporated herein by reference. The City's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The City shall, within 30 days after the effective date of this Agreed Order, submit payment for all outstanding fees, including any associated penalties and interest and with the notation, "Re: City of Dallas, TCEQ Financial Administration Account No. TCEQ 0000476U", to the address listed in Ordering Provision No. 1.
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 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

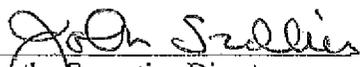
substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive 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 6/22/2010

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Dallas. I am authorized to agree to the attached Agreed Order on behalf of the City of Dallas, 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 Dallas 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 5/20/2010



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



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: 2009-1941-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Dallas
Penalty Amount: Nine Thousand One Hundred Dollars (\$9,100)
SEP Offset Amount: Nine Thousand One Hundred Dollars (\$9,100)
Type of SEP: Pre-approved
Third-Party Recipient: Keep Texas Beautiful - Stop Trashing Texas Program
Location of SEP: Dallas 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:

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 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.

