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EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-1979-MWD-E TCEQ ID: RN102080603 CASE NO.: 38830
RESPONDENT NAME: City of Edinburg

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 Edinburg, located northeast of the City of Edinburg immediately northeast of the intersection of North M Road and the Southern Union Pacific Railroad track easement, Hidalgo 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: The Honorable Juan Hinojosa, P.O. Box 12068, Capitol Station, Austin, Texas 78711</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on August 16, 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. Evette Alvarado, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2573; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: The Honorable Richard H. Garcia, Mayor, City of Edinburg, P.O. Box 1079, Edinburg, Texas 78540 The Honorable Noe Garza, P.E., Mayor Pro-Tem, City of Edinburg, P.O. Box 1079, Edinburg, Texas 78540 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 29, 2009</p> <p>Date of NOV/NOE Relating to this Case: November 18, 2009 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>Failure to comply with the permitted effluent limitations for carbonaceous biochemical oxygen demand, ammonia nitrogen, total suspended solids, and total mercury [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010503002, Interim and Final Phase Effluent Limitations and Monitoring Requirements No. 1 and Standard Condition No. 11].</p>	<p>Total Assessed: \$60,900</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$60,900</p> <p>Total Paid (Due) to General Revenue: \$0</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: The Respondent has three repeated enforcement actions over the prior five year period for the same violation.</p>	<p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to implement and complete Supplemental Environmental Projects (SEPs). (See SEP Attachments A and B)</p> <p>2) The Order will also require the Respondent to, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010503002, 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. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limitations.</p>

Additional ID No(s): WQ0010503002

Attachment A
Docket Number: 2009-1979-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Edinburg
Penalty Amount: Sixty Thousand Nine Hundred Dollars (\$60,900)
SEP Offset Amount: Thirty Thousand Four Hundred Fifty Dollars (\$30,450)
Type of SEP: Pre-approved
Third-Party Recipient: Keep Texas Beautiful - Stop Trashing Texas Program
Location of SEP: Hidalgo 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, and by 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 Enforcement Division 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.

Attachment B
Docket Number: 2009-1979-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Edinburg
Payable Penalty Amount:	Sixty Thousand Nine Hundred Dollars (\$60,900)
SEP Amount:	Thirty Thousand Four Hundred Fifty Dollars (\$30,450)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Water or Wastewater Treatment Assistance
Location of SEP:	Hidalgo 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 B.

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 Texas Association of Resource Conservation and Development Areas, Inc. to be used for the RC&D Water or Wastewater Treatment Assistance Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

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 protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems.

C. Minimum Expenditure

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

2. Performance Schedule

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

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

3. Records and Reporting

Concurrent with the payment of the SEP amount, the Respondent shall provide the Enforcement Division 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

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	24-Nov-2009	Screening	7-Dec-2009	EPA Due	5-Mar-2010
	PCW	11-Mar-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Edinburg
Reg. Ent. Ref. No.	RN102080603
Facility/Site Region	15-Harlingen
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	38830	No. of Violations	2
Docket No.	2009-1979-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Evette Alvarado
		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 \$17,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History 254.0% Enhancement Subtotals 2, 3, & 7 \$44,450

Notes: Enhancement due to 34 monthly self-reported effluent violations, four NOV's with same or similar violations, two NOV's with unrelated violations, and three final enforcement orders containing a denial of liability.

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 \$0

Economic Benefit 0.0% Enhancement* Subtotal 6 \$0

Total EB Amounts \$2,800
Approx. Cost of Compliance \$20,000
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal \$61,950

OTHER FACTORS AS JUSTICE MAY REQUIRE -1.7% Adjustment -\$1,050

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommend reduction to prevent double-enhancement for violations that were self-reported.

Final Penalty Amount \$60,900

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty \$60,900

DEFERRAL 0.0% Reduction Adjustment \$0

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 \$60,900

Screening Date 7-Dec-2009

Docket No. 2009-1979-MWD-E

PCW

Respondent City of Edinburg

Policy Revision 2 (September 2002)

Case ID No. 38830

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102080603

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

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 <i>(number of NOVs meeting criteria)</i>	38	190%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability <i>(number of orders meeting criteria)</i>	3	60%
	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 <i>(number of judgements or consent decrees meeting criteria)</i>	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 <i>(number of counts)</i>	0	0%
Emissions	Chronic excessive emissions events <i>(number of events)</i>	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 <i>(number of audits for which notices were submitted)</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 <i>(number of audits for which violations were disclosed)</i>	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) 254%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement due to 34 monthly self-reported effluent violations, four NOVs with same or similar violations, two NOVs with unrelated violations, and three final enforcement orders containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 254%

Screening Date 7-Dec-2009

Docket No. 2009-1979-MWD-E

PCW

Respondent City of Edinburg

Policy Revision 2 (September 2002)

Case ID No. 38830

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102080603

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010603002, Interim Phase Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with the permitted effluent limitations, as documented during a record review conducted on October 29, 2009, and shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			x	25%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective as a result of this violation.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 31

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

Violation Base Penalty \$2,500

One quarterly event is recommended for the month of May 2009.

Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

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

Violation Subtotal \$2,500

Economic Benefit (EB) for this violation

Estimated EB Amount \$1,868

Statutory Limit Test

Violation Final Penalty Total \$8,700

This violation Final Assessed Penalty (adjusted for limits) \$8,700

Economic Benefit Worksheet

Respondent City of Edinburg
Case ID No. 38830
Reg. Ent. Reference No. RN102080603
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	\$20,000	31-May-2009	30-Sep-2010	1.33	\$89	\$1,779	\$1,868
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to conduct an evaluation to determine the cause of non-compliance, purchase additional equipment, and make necessary adjustments to achieve compliance with the permitted effluent limits. Date required is the initial month of noncompliance. Final date is the expected 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

\$20,000

TOTAL

\$1,868

Screening Date 7-Dec-2009

Docket No. 2009-1979-MWD-E

PCW

Respondent City of Edinburg

Policy Revision 2 (September 2002)

Case ID No. 38830

PCW Revision October 30, 2009

Reg. Ent. Reference No. RN102080603

Media [Statute] Water Quality

Enf. Coordinator Evette Alvarado

Violation Number

2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0010503002, Final Phase Effluent Limitations and Monitoring Requirements No. 1 and Standard Condition No. 11

Violation Description

Failed to comply with the permitted effluent limitations, as documented during a record review conducted on October 29, 2009, and shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual		X	
Potential			

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective as a result of this violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 3

92 Number of violation days

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$15,000

Three monthly events are recommended for the months of June, July, and August of 2009.

Good Faith Efforts to Comply

	0.0% Reduction	
	Before NOV	NOV to EDPRP/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 \$15,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$52,200

This violation Final Assessed Penalty (adjusted for limits) \$52,200

Economic Benefit Worksheet

Respondent City of Edinburg
Case ID No. 38830
Reg. Ent. Reference No. RN102080603
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
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

See economic benefit for Violation No. 1.

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

\$0

TOTAL

\$0

Compliance History Report

Customer/Respondent/Owner-Operator: CN600647978 City of Edinburg Classification: AVERAGE Rating: 9.35
Regulated Entity: RN102080603 CITY OF EDINBURG Classification: AVERAGE Site Rating: 5.41

ID Number(s):
WASTEWATER PERMIT WQ0010503002
WASTEWATER PERMIT TPDES0024112
WASTEWATER PERMIT TX0024112
SLUDGE REGISTRATION 21785
WASTEWATER LICENSING LICENSE WQ0010503002

Location: NE OF THE CITY OF EDINBURG IMMEDIATELY
NE OF THE INTX OF N M RD AND THE SOUTHERN
UNION PACIFIC RR TRACK EASEMENT IN HIDALGO
CO, TX

TCEQ Region: REGION 15 - HARLINGEN

Date Compliance History Prepared: January 21, 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: Evette Alvarado Phone: 512-239-2573

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If yes, who is the current owner/operator? N/A
4. If yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site:

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

Effective Date: 06/09/2005

ADMINORDER 2004-0502-MWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT

Description: Noncompliance with the permitted Ammonia Nitrogen daily average permit limit of 3 milligrams per liter during September 2003 (4.25), October 2003 (5.36), and April 2004 (6.91).

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)

Rqmt Prov: Monit. & Reporting Req.: 7 (Page 5) PERMIT

Description: Failure to submit written notification to the TCEQ within five days of becoming aware of a noncompliant event which did result in a fish kill.

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limitations: 1 (Page 2) PERMIT

Description: Unauthorized discharge of partially treated wastewater which resulted in a fish kill and noncompliance with the permitted Ammonia Nitrogen daily average permit limit of 3 milligrams per liter during March 2004 (10.2) and the Total Suspended Solids daily maximum limit of 40 milligrams per liter during March 2004 (69.7)

Effective Date: 12/02/2006

ADMINORDER 2006-0899-WQ-E

Classification: Major

Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(4)

40 CFR Chapter 122, SubChapter D, PT 122, SubPT B 122.26(c)

Description: Failed to obtain authorization to discharge storm water associated with wastewater activities to waters in the state

Effective Date: 04/26/2007

ADMINORDER 2006-1413-MLM-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT

Description: Failed to comply with the permitted effluent limits for the Wastewater Facility

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	12/17/2004	(340331)
2	12/20/2004	(382914)
3	01/20/2005	(382915)
4	02/22/2005	(382912)
5	03/18/2005	(382913)
6	04/18/2005	(420719)
7	05/19/2005	(420720)
8	06/17/2005	(420721)
9	07/18/2005	(441717)
10	08/19/2005	(441718)
11	09/19/2005	(441719)
12	10/20/2005	(470219)
13	11/18/2005	(470220)
14	12/15/2005	(436116)
15	12/16/2005	(470221)
16	01/20/2006	(470222)
17	02/17/2006	(470217)
18	03/21/2006	(470218)
19	04/05/2006	(460854)
20	04/19/2006	(499334)
21	05/22/2006	(499335)
22	06/09/2006	(463963)
23	06/19/2006	(499336)
24	06/20/2006	(521383)
25	08/15/2006	(521384)
26	08/18/2006	(508757)
27	09/18/2006	(521385)

28 10/16/2006 (545911)
 29 11/21/2006 (545912)
 30 12/26/2006 (545913)
 31 12/29/2006 (553683)
 32 01/22/2007 (545914)
 33 02/22/2007 (577819)
 34 03/12/2007 (543044)
 35 03/26/2007 (577820)
 36 04/25/2007 (577821)
 37 05/16/2007 (577822)
 38 06/27/2007 (577823)
 39 07/23/2007 (577824)
 40 07/30/2007 (570083)
 41 08/14/2007 (602299)
 42 08/30/2007 (602300)
 43 09/17/2007 (602301)
 44 10/22/2007 (620481)
 45 10/23/2007 (598297)
 46 11/26/2007 (620482)
 47 11/29/2007 (609739)
 48 12/27/2007 (620483)
 49 01/23/2008 (672761)
 50 02/25/2008 (672759)
 51 03/20/2008 (672760)
 52 04/28/2008 (690779)
 53 05/27/2008 (690780)
 54 06/14/2008 (518649)
 55 06/26/2008 (690781)
 56 07/24/2008 (711647)
 57 08/21/2008 (711648)
 58 08/27/2008 (700766)
 59 09/25/2008 (711649)
 60 09/29/2008 (703938)
 61 10/23/2008 (728140)
 62 12/01/2008 (728141)
 63 12/29/2008 (728142)
 64 01/22/2009 (751082)
 65 02/24/2009 (751080)
 66 03/24/2009 (751081)
 67 04/23/2009 (768964)
 68 05/28/2009 (743870)
 69 11/20/2009 (780757)

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

Date: 12/15/2004 (340331) CN600647978
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 312, SubChapter G 312.144(f)
 Description: Failure to prominently mark the discharge port on all closed vehicles, tanks, or containers.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 312, SubChapter G 312.145(a)(5)
 Description: Failure to maintain a record of each individual collection and deposit in the form of a trip ticket that include the information listed in 30 Tex. Admin. Code 312. 145 (a) (5)

Date: 04/30/2005 (420720) CN600647978
 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 (470219) CN600647978
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 12/16/2005 (436116) CN600647978
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.126(a)
 TPDES Permit No. 10503-002 Operational PERMIT
 Description: Failure to initiate engineering and financial planning for expansion and/or upgrading of the wastewater treatment facility when the facility reaches 75% of their permitted flow for 3 consecutive months.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.4(g)(4)(B)
 TPDES Permit No. 10503-002 Operational PERMIT
 Description: Failure to maintain rotor in the north oxidation ditch.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)
 30 TAC Chapter 305, SubChapter F 305.125(5)
 TPDES Permit No. 10503-002 Permit PERMIT
 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 an unauthorized discharge.

Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TPDES Permit No. 10503-002 Effluent PERMIT
 Description: Failure to maintain daily average Ammonia Nitrogen level below 3.0 mg/l and a daily average maximum of 10 mg/l for September 2005.

Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
 30 TAC Chapter 317 317.2(d)(5)(E)
 TPDES Permit No. 10503-002 Operational PERMIT
 Description: Failure to have two working pumps at lift station #8.

Date: 02/28/2006 (470218) CN600647978
 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: 03/31/2006 (499334) CN600647978
 Self Report? YES Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)
 Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2006 (499335) CN600647978
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2006 (499336) CN600647978
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: 07/31/2006 (521384) CN600647978
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2006 (521385) CN600647978
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: 09/30/2006 (545911) CN600647978
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: 10/31/2006 (545912) CN600647978
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: 11/30/2006 (545913) CN600647978
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 12/29/2006 (553683) CN600647978
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 12/31/2006 (545914) CN600647978
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: 01/31/2007 (577819) CN600647978
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: 02/28/2007 (577820) CN600647978
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: 03/31/2007 (577821) CN600647978
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2007 (577822) CN600647978
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/18/2007 (543653) CN600647978
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Interim Effluent Limitations PERMIT
Description: Failure to maintain single grab effluent limitation for Ammonia Nitrogen (15mg/L) and Total Suspended Solids (60 mg/L) and Daily Average effluent limitation of 3 mg/l for Ammonia Nitrogen.

Date: 05/31/2007 (577823) CN600647978
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: 06/30/2007 (577824) CN600647978
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2007 (602301) CN600647978
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: 05/31/2008 (690781) CN600647978
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 (711648) CN600647978
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 08/27/2008 (700766) CN600647978
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.126(a)
Operational Requirements, PERMIT
Description: Failure to initiate engineering and financial planning for expansion and/or upgrading of the domestic wastewater treatment facility whenever flow measurements reach 75 percent of the permitted daily average or annual average flow for three consecutive months.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Operational Requirements, 1. PERMIT
Description: Failure to ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Operational Requirements, 1. PERMIT
Description: Failure to ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Interim Phase Effluent Limitations PERMIT
Description: Failure to maintain an effluent annual average flow at or below 5.9 million gallons per day (MGD).

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Interim Phase Effluent Limitations PERMIT
Description: Failure to maintain Ammonia Nitrogen effluent limitations.

Date: 08/31/2008 (711649) CN600647978
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 (728140) CN600647978
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: 10/31/2008 (728141) CN600647978
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 (728142) CN600647978
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 (751082) CN600647978
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 (751080) CN600647978
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 (751081) CN600647978
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 (768964) CN600647978
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: 04/28/2009 (743870) CN600647978
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121
Description: Noncompliance with effluents parameters of Water Quality Permit No. 10503-002 dissolved oxygen September 1998.

Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.126(a)
Operational Requirements, PERMIT
Description: Failure to inflate engineering and financial planning for expansion and/or upgrading of the domestic wastewater treatment facility whenever flow measurements reach 75 percent of the permitted daily average or annual average flow for three consecutive months.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Operational Requirements, 1. PERMIT
Description: Failure to ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Operational Requirements, 1. PERMIT
Description: Failure to ensure that the facility and all of its systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Interim Phase Effluent Limitations PERMIT
Description: Failure to maintain an effluent annual average flow at or below 5.9 million gallons per day (MGD).

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to annually calibrate all automatic flow measuring devices.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: Failure to properly operate and maintain all rotors for oxidation ditches.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Description: Failure to properly operate and maintain the headworks structure and all rotors for orbal aeration basin.

Date: 04/30/2009 CN600647978
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: 05/31/2009 CN600647978
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: 06/30/2009 CN600647978
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: 07/31/2009 CN600647978
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2009 CN600647978
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF EDINBURG
RN102080603**

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§
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§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2009-1979-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 Edinburg ("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 northeast of the City of Edinburg immediately northeast of the intersection of North M Road and the Southern Union Pacific Railroad track easement in Hidalgo 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 conducted on October 29, 2009, TCEQ staff documented the following from the self-reported monthly discharge monitoring reports ("DMRs"):

EFFLUENT VIOLATION TABLE							
CITY OF EDINBURG							
TPDES Permit No. WQ0010503002							
Docket No. 2009-1979-MWD-E							
Months	CBOD ₅ Daily Avg. Conc.	CBOD ₅ Daily Avg. Loading	NH ₃ -N Daily Avg. Loading	NH ₃ -N Daily Avg. Conc.	TSS Daily Avg. Loading	TSS Daily Avg. Conc.	Total Mercury Daily Avg.
	Limit = 10 mg/L	Limit = 492 lbs/day	Limit = 148 lbs/day	Limit = 3 mg/L	Limit = 738 lbs/day	Limit = 15 mg/L	Limit = 0.00832 lbs/day
5/31/2009	c	c	159.0	c	c	c	c
	Limit = 5 mg/L	Limit = 246 lbs/day	Limit = 74 lbs/day	Limit = 1.5 mg/L	Limit = 346 lbs/day	Limit = 5 mg/L	Limit = 0.00832 lbs/day
6/30/2009	8.9	454	250.0	4.9	301	5.90	c
7/31/2009	7.6	392	180.0	3.5	255	c	c
8/31/2009	c	280	105.0	1.9	c	c	0.00852

NH₃-N = ammonia nitrogen
 CBOD₅ = carbonaceous biochemical oxygen demand
 TSS = total suspended solids
 avg. = average
 conc. = concentration
 lbs/day = pounds per day
 mg/L = milligrams per liter
 c = compliant
 * Final phase limits effective May 22, 2009 (June 30, 2009 monitoring period)

4. The City received notice of the violations on November 23, 2009.

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 the permitted effluent limitations, 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. WQ0010503002, Interim and Final Phase Effluent Limitations and Monitoring Requirements No. 1 and Standard Condition No. 11.

3. 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.
4. An administrative penalty in the amount of Sixty Thousand Nine Hundred Dollars (\$60,900) 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. Sixty Thousand Nine Hundred Dollars (\$60,900) of the administrative penalty shall be conditionally offset by the City's completion of two Supplemental Environmental Projects ("SEPs").

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 Sixty Thousand Nine Hundred Dollars (\$60,900) as set forth in Section II, Paragraph 4 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 Edinburg, Docket No. 2009-1979-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 the SEPs in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 4 above, Sixty Thousand Nine Hundred Dollars (\$60,900) of the assessed administrative penalty shall be offset with the condition that the City implement the SEPs defined in Attachments A and B, 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 agreements.
3. It is further ordered that the City shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010503002, 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. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the

permitted effluent limitations. 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
Harlingen Regional Office
Texas Commission on Environmental Quality
1804 West Jefferson Avenue
Harlingen, Texas 78550-5247

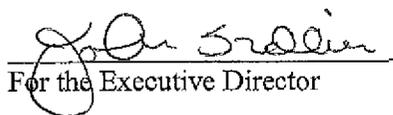
4. The provisions of this Agreed Order shall apply to and be binding upon the City. The City is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the City fails to comply with any of the Ordering 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

8/3/2010
Date

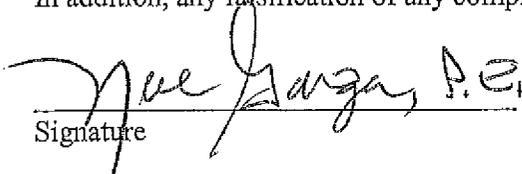
I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Edinburg. I am authorized to agree to the attached Agreed Order on behalf of the City of Edinburg, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting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

I understand that by entering into this Agreed Order, the City of Edinburg 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

June 17, 2010
Date

Noe Garza, P.E.
Name (Printed or typed)
Authorized Representative of
City of Edinburg

Mayor Pro-Tem
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.

Attachment A

Docket Number: 2009-1979-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Edinburg
Penalty Amount: Sixty Thousand Nine Hundred Dollars (\$60,900)
SEP Offset Amount: Thirty Thousand Four Hundred Fifty Dollars (\$30,450)
Type of SEP: Pre-approved
Third-Party Recipient: Keep Texas Beautiful - Stop Trashing Texas Program
Location of SEP: Hidalgo 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.

I. 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, and by 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 Enforcement Division 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.

Attachment B
Docket Number: 2009-1979-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Edinburg
Payable Penalty Amount:	Sixty Thousand Nine Hundred Dollars (\$60,900)
SEP Amount:	Thirty Thousand Four Hundred Fifty Dollars (\$30,450)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D")- Water or Wastewater Treatment Assistance
Location of SEP:	Hidalgo 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 B.

I. Project Description

A. Project

The Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of Resource Conservation and Development Areas, Inc. to be used for the RC&D Water or Wastewater Treatment Assistance Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems.

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 protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems.

C. Minimum Expenditure

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

2. **Performance Schedule**

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

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

3. **Records and Reporting**

Concurrent with the payment of the SEP amount, the Respondent shall provide the Enforcement Division 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

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.

