

Executive Summary – Enforcement Matter – Case No. 41385
City of Calvert
RN102185972
Docket No. 2011-0476-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Calvert Wastewater Treatment Facility, located on the east side of Tidwell Creek immediately adjacent to and on the north side of Farm-to-Market Road 1644, approximately 0.7 mile southwest of the intersection of State Highway 6 and Farm-to-Market Road 1644, Robertson County

Type of Operation:

Wastewater treatment facility

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: July 29, 2011

Comments Received: No

Penalty Information

Total Penalty Assessed: \$6,464

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$6,464

Name of SEP: Electronics and Used Tire Collection Event

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 41385
City of Calvert
RN102185972
Docket No. 2011-0476-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: March 11, 2011

Date(s) of NOE(s): March 23, 2011

Violation Information

1. Failed to comply with the permitted effluent limits for total suspended solids, dissolved oxygen, and total residual chlorine [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010095001, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6].
2. Failed to timely submit discharge monitoring reports ("DMRs") [30 TEX. ADMIN. CODE §§ 305.125(17) and 319.7(d) and TPDES Permit No. WQ0010095001, Monitoring and Reporting Requirements No. 1].
3. Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2010 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010095001, Sludge Provisions].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Executive Director recognizes that the Respondent submitted the DMRs for the monitoring periods ending February 28, 2010 through November 30, 2010 on January 6, 2011, and submitted the DMR for the monitoring period ending December 31, 2010 and the annual sludge report for the monitoring period ending July 31, 2010 on April 8, 2011.

Technical Requirements:

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:
 - a. Within 30 days, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly DMRs and the timely submittal of signed and certified annual sludge reports; and
 - b. Within 90 days, submit written certification demonstrating compliance.

Executive Summary – Enforcement Matter – Case No. 41385
City of Calvert
RN102185972
Docket No. 2011-0476-MWD-E

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Samuel Short, Enforcement Division,
Enforcement Team 3, MC 169, (512) 239-5363; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412
TCEQ SEP Coordinator: Sharon Blue, SEP Coordinator, Litigation Division, MC 175,
(512) 239-4495
Respondent: The Honorable Marcus Greaves, Mayor, City of Calvert, P.O. Box 505,
Calvert, Texas 77837
Respondent's Attorney: N/A

Attachment A
Docket Number: 2011-0476-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Calvert
Penalty Amount:	Six Thousand Four Hundred Sixty-Four Dollars (\$6,464)
SEP Offset Amount:	Six Thousand Four Hundred Sixty-Four Dollars (\$6,464)
Type of SEP:	Custom (pre-approved concept)
Project Name:	Electronics and Used Tire Collection Event
Location of SEP:	Robertson County

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

1. Project Description

a. Project

Respondent shall hold a three-day event for the collection, recycling, or proper disposal of tires and residential electronic waste (“E-waste”) consisting of computers and televisions. Respondent shall offer a designated drop-off location at Old City Yard, Hanna Street, Calvert, Texas, where the public can drop off materials for disposal or recycling at no cost to the citizens. The event will be advertised in a local newspaper to increase public awareness of and participation in the event. Respondent shall collect, transport, dispose of, or recycle the collected materials at Brazos Valley Solid Waste Management Agency (Permit No. 1444C, RN100830090), 7600 Rock Prairie Road, College Station, Texas. The SEP Offset Amount will be used for the cost of a licensed contractor to transport and properly dispose of or recycle collected tires and E-waste, for directional signs at the drop off location(s), and for the cost of publication of the event. Labor shall be provided by the Respondent at no cost to the SEP.

The Respondent shall ensure that the event:

- is advertised to the public and includes the required enforcement statement;
- occurs during daylight hours;
- offers to the public a convenient drop-off location; and
- includes recycling and proper disposal tires and electronics.

The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations. Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs.

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to do this project and that it is being done solely in an effort to settle this enforcement action.

b. Environmental Benefit

The tire collection portion of the SEP will provide a discernible environmental benefit by helping rid communities of the dangers and health threats associated with illegal tire sites.

The electronics recycling portion of the events will include recycling of household E-waste materials. E-waste materials may include computers and related information technologies such as workstations, scanners, printers, hand-held diagnostic and screening tools, cell phones, servers, and televisions, among many others. Cathode ray tubes ("CRT") are the picture tubes in computers, monitors and TVs. With the rapid evolution of technology, computers and TVs containing CRTs become obsolete in a short period of time and are simply discarded, often in landfills. A typical 17-inch CRT contains approximately two pounds of lead and larger CRTs may contain up to ten pounds of lead. E-waste can contain lead, mercury, cadmium, hexavalent chromium and brominated flame retardants.

c. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 365 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions taken to begin the project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made on the project during the previous 60-day period and setting forth a schedule for achieving completion of the project within the time-frame required in Section 2. *Performance Schedule*, above. Thereafter, Respondent shall submit progress reports to the TCEQ in the following increments and containing detailed information as set forth in the Reporting Schedule table below:

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project

Days from Effective Order Date	Information Required
90	Actions taken during previous 60-day period to implement the project
180	Actions taken during previous 90-day period to implement the project
270	Actions taken during previous 90-day period to implement the project
365	Notice of SEP completion

B. Final Report

Within 60 days after completion of SEP, and not later than 425 days after the effective date of the Agreed Order, Respondent shall submit a Final Report to the TCEQ, which includes:

1. An itemized list of expenditures and total of costs incurred to complete the tire and E-waste collection event;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list required in paragraph 3.B.1., above;
3. Copies of proof of advertisement for the collection event (the advertisement must include a statement that the SEP was performed as a result of a TCEQ enforcement action);
4. Dated photographs of the items collected;
5. Map showing exact location(s) of collection site(s) clearly marked. The map must be of sufficient detail to allow TCEQ staff to verify the location of the completed project;
6. Tally list of items collected, i.e. number of passenger tires, number of truck tires, number of computers, etc.;
7. Manifests are required to demonstrate proof of the proper disposal and/or recycling of the collected items;
8. A certified/notarized statement of quantifiable environmental benefit. Respondent must quantify the environmental benefit of the project; and
9. Any additional information and supporting documentation to demonstrate completion of the project in compliance with this SEP agreement.

C. Address

Respondent shall submit all SEP reports and any requested additional information to the following address:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
PO Box 13087
Austin, Texas 78711-31087

4. Additional Information and Access

Respondent shall provide additional information as required by TCEQ staff and shall allow access to all records related to the receipt and expenditure of the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the Executive Director (“ED”) may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to complete the project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and shall include on the check the docket number of this Agreed Order and note that it is for reimbursement of a SEP. Respondent shall make the check payable to “Texas Commission on Environmental Quality” and shall mail it to:

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

6. Publicity

Any public statements concerning this SEP made by or on behalf of 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.

7. Clean Texas Program

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

8. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Agreed Order has not been, and shall not be, included as a SEP for 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	28-Mar-2011	Screening	28-Mar-2011	EPA Due	
	PCW	4-Apr-2011				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Calvert
Reg. Ent. Ref. No.	RN102185972
Facility/Site Region	9-Waco
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	41385	No. of Violations	3
Docket No.	2011-0476-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 **Subtotals 2, 3, & 7**

Notes: Enhancement for fifteen months of self-reported effluent violations, five NOV for the same/similar violations, and one NOV for dissimilar violations 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 28-Mar-2011

Docket No. 2011-0476-MWD-E

PCW

Respondent City of Calvert

Policy Revision 2 (September 2002)

Case ID No. 41385

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102185972

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 notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	20	100%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	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 (<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%

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) 102%

>> **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 for fifteen months of self-reported effluent violations, five NOVs for the same/similar violations, and one NOV for dissimilar violations within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 102%

Screening Date 28-Mar-2011

Docket No. 2011-0476-MWD-E

PCW

Respondent City of Calvert

Policy Revision 2 (September 2002)

Case ID No. 41385

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102185972

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. WQ0010095001, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6

Violation Description Failed to comply with the permitted effluent limits, as documented during a record review conducted on March 11, 2011 and shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			x	10%
	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 of human health of environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 123 Number of violation days

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

Violation Base Penalty \$2,000

Two quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	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 \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$482

Violation Final Penalty Total \$4,040

This violation Final Assessed Penalty (adjusted for limits) \$4,040

Economic Benefit Worksheet

Respondent City of Calvert
Case ID No. 41385
Req. Ent. Reference No. RN102185972
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

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)	\$5,000	31-Jan-2010	4-Jan-2012	1.93	\$482	n/a	\$482

Notes for DELAYED costs

The estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the wastewater treatment system. Date required is the first date of non-compliance. The 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

\$5,000

TOTAL

\$482

Screening Date 28-Mar-2011

Docket No. 2011-0476-MWD-E

PCW

Respondent City of Calvert

Policy Revision 2 (September 2002)

Case ID No. 41385

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102185972

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(17) and 319.7(d) and TPDES Permit No. WQ0010095001, Monitoring and Reporting Requirements No. 1

Violation Description

Failed to timely submit discharge monitoring reports ("DMRs") for the monitoring periods ending February 28, 2010 through December 31, 2010. Specifically, the DMRs were due by the 20th day of the following month. The DMRs for the monitoring periods ending February 28, 2010 through November 30, 2010 were not submitted until January 6, 2011 and the DMR for the monitoring period ending December 31, 2010 was not submitted until April 8, 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
			x	1%

Matrix Notes

At least 70% of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 11 Number of violation days 373

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

Violation Base Penalty \$1,100

Eleven single events are recommended (one for each DMR).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	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 \$1,100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$19

Violation Final Penalty Total \$2,222

This violation Final Assessed Penalty (adjusted for limits) \$2,222

Economic Benefit Worksheet

Respondent City of Calvert
Case ID No. 41385
Rea. Ent. Reference No. RN102185972
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
<small>No commas or \$</small>							

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	\$275	20-Mar-2010	8-Apr-2011	1.05	\$14	n/a	\$14
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)	\$250	20-Mar-2011	4-Aug-2011	0.38	\$5	n/a	\$5

Notes for DELAYED costs

The estimated cost to submit the DMRs (\$25 per report). Date required is the date the first report was due and the final date is the date the last report was received.

The estimated cost to update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly DMRs and the timely submittal of signed and certified annual sludge reports. Date required is the date the first report was due and the final date is the estimated 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

\$525

TOTAL

\$19

Screening Date 28-Mar-2011

Docket No. 2011-0476-MWD-E

PCW

Respondent City of Calvert

Policy Revision 2 (September 2002)

Case ID No. 41385

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102185972

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0010095001, Sludge Provisions

Violation Description Failed to timely submit the annual sludge report for the monitoring period ending July 31, 2010, as documented during a record review conducted on March 11, 2011. Specifically, the annual sludge report was due by September 1, 2010 and was not submitted.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
			X	1%

Matrix Notes

At least 70% of the rule requirement was met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 1 Number of violation days 208

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

mark only one with an x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	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 \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$202

This violation Final Assessed Penalty (adjusted for limits) \$202

Economic Benefit Worksheet

Respondent City of Calvert
Case ID No. 41385
Req. Ent. Reference No. RN102185972
Media Water Quality
Violation No. 3

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	\$100	1-Sep-2010	8-Apr-2011	0.60	\$3	n/a	\$3
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The estimated cost to submit the annual sludge report for the monitoring period ending July 31, 2010. Date required is the date the report was due and the final date is the date the report was received. The estimated cost to update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished is included in violation no. 2.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$3

Effluent Limit Violation Table

Respondent	City of Calvert
ID Number(s)	TPDES Permit No. WQ0010095001; Case No. 41385
Docket Number	2011-0476-MWD-E
Enf. Coordinator	Samuel Short
Corresponds to Violation Number:	1

EFFLUENT PARAMETER
Permit Limit

	TSS Daily Average Conc.	TSS Daily Average Loading	TSS Single Grab Conc.	DO Monthly Min. Conc.	Total Chlorine Residual Monthly Max.		
Month/Year	20 mg/L	42 lb/dy	65 mg/L	5 mg/L	4 mg/L		
January 2010	c	c	c	c	4.6		
March 2010	87.4	58.11	214	c	c		
August 2010	50.5	c	188	c	c		
September 2010	20.6	73.17	c	4.75	c		

Name	Abbreviation
milligrams per liter	mg/L
pounds per day	lb/dy
total suspended solids	TSS
dissolved oxygen	DO
maximum	max.
minimum	min.
concentration	Conc.
compliant	c

25	09/27/2007	(603371)
26	10/25/2007	(621809)
27	01/09/2008	(621810)
28	03/20/2008	(673771)
29	01/10/2008	(673772)
30	01/28/2008	(673773)
31	03/21/2008	(691997)
32	05/05/2008	(691998)
33	05/19/2008	(691999)
34	06/13/2008	(713036)
35	07/17/2008	(713037)
36	09/12/2008	(713038)
37	09/12/2008	(713039)
38	10/28/2008	(729221)
39	12/12/2008	(729222)
40	12/12/2008	(729223)
41	05/04/2009	(770054)
42	02/16/2010	(809786)
43	07/01/2009	(809787)
44	05/18/2009	(809788)
45	06/11/2009	(809789)
46	12/16/2009	(809790)
47	09/11/2009	(809791)
48	09/16/2009	(809792)
49	04/29/2010	(809793)
50	01/12/2010	(809794)
51	12/16/2009	(809795)
52	01/26/2010	(809796)
53	07/28/2010	(845911)
54	11/23/2009	(869852)
55	01/06/2011	(896927)
56	01/06/2011	(896928)
57	01/06/2011	(896929)
58	01/06/2011	(896930)
59	01/06/2011	(896931)
60	01/06/2011	(896932)
61	01/06/2011	(896933)
62	01/06/2011	(896934)
63	01/06/2011	(896935)
64	01/06/2011	(896936)
65	03/23/2011	(905616)

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

Date:	05/31/2006	(501347)	CN600292213	
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:	01/05/2007	(553720)	CN600292213	
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			
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			
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			

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:	01/31/2007 (581703)	CN600292213	
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 (581705)	CN600292213	
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:	04/09/2007 (593276)	CN600292213	
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:	04/30/2007 (603367)	CN600292213	
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:	05/31/2007 (603368)	CN600292213	
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:	06/01/2007 (561415)	CN600292213	
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(11)(B) 30 TAC Chapter 305, SubChapter F 305.125(11)(C) Sludge Provisions, Section II. E Pg. 22 PERMIT		
Description:	Failure by the permittee to maintain required sewage sludge records.		
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) 30 TAC Chapter 317 317.3(e)(5) Operational Requirements No. 1 Pg. 9 PERMIT		
Description:	Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Date:	07/31/2007 (603370)	CN600292213	
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:	08/10/2007 (593277)	CN600292213	
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		
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:	09/30/2007 (621809)	CN600292213	
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:	10/31/2007 (621810)	CN600292213	
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:	01/31/2008 (673771)	CN600292213	
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 (729223)	CN600292213	
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	(809791)	CN600292213	
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	11/23/2009	(869852)	CN600292213	
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			
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	01/31/2010	(809786)	CN600292213	
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	03/31/2010	(896928)	CN600292213	
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	07/28/2010	(845911)	CN600292213	
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			
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			
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	08/31/2010	(896933)	CN600292213	
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	09/30/2010	(896934)	CN600292213	
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 CALVERT
RN102185972**

§
§
§
§
§

**BEFORE THE
TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2011-0476-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 Calvert (“the Respondent”) under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent 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 Respondent 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 Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment facility located on the east side of Tidwell Creek immediately adjacent to and on the north side of Farm-to-Market Road 1644, approximately 0.7 mile southwest of the intersection of State Highway 6 and Farm-to-Market Road 1644 in Robertson County, Texas (the “Facility”).

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During a record review on March 11, 2011, TCEQ staff documented the following effluent values based on the self-reported discharge monitoring reports ("DMR").

<u>EFFLUENT PARAMETER</u>					
<u>Permit Limit</u>					
	TSS Daily Average Conc.	TSS Daily Average Loading	TSS Single Grab Conc.	DO Monthly Min. Conc.	Total Chlorine Residual Monthly Max.
<i>Month/Year</i>	20 mg/L	42 lb/dy	65 mg/L	5 mg/L	4 mg/L
January 2010	c	c	c	c	4.6
March 2010	87.4	58.11	214	c	c
August 2010	50.5	c	188	c	c
September 2010	20.6	73.17	c	4.75	c

<u>Name</u>	<u>Abbreviation</u>
milligrams per liter	mg/L
pounds per day	lb/dy
total suspended solids	TSS
dissolved oxygen	DO
maximum	max.
minimum	min.
Concentration	Conc.
compliant	c

4. During a record review on March 11, 2011, TCEQ staff documented that the DMR for the monitoring periods ending February 28, 2010 through November 30, 2010 were not submitted until January 6, 2011 and the DMR for the monitoring period ending December 31, 2010 was not submitted until April 8, 2011.
5. During a record review on March 11, 2011, TCEQ staff documented that the annual sludge report for the monitoring period ending July 31, 2010 was due by September 1, 2010 and was not submitted until April 8, 2011.
6. The Respondent received notice of the violations on March 24, 2011.
7. The Executive Director recognizes that the Respondent submitted the DMRs for the monitoring periods ending February 28, 2010 through November 30, 2010 on January 6, 2011, and submitted the DMR for the monitoring period ending December 31, 2010 and the annual sludge report for the monitoring period ending July 31, 2010 on April 8, 2011.

II. CONCLUSIONS OF LAW

1. The Respondent 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 Respondent failed to comply with the permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010095001, Effluent Limitations and Monitoring Requirements Nos. 1, 2, and 6.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to timely submit DMRs, in violation of 30 TEX. ADMIN. CODE §§ 305.125(17) and 319.7(d) and TPDES Permit No. WQ0010095001, Monitoring and Reporting Requirements No. 1.
4. As evidenced by Findings of Fact No. 5, the Respondent failed to timely submit the annual sludge report for the monitoring period ending July 31, 2010, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0010095001, Sludge Provisions.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent 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.
6. An administrative penalty in the amount of Six Thousand Four Hundred Sixty-Four Dollars (\$6,464) 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. Six Thousand Four Hundred Sixty-Four Dollar (\$6,464) shall be conditionally offset by Respondent's completion of a Supplemental Environmental Project ("SEP").

III. ORDERING PROVISIONS

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

1. The Respondent is assessed an administrative penalty in the amount of Six Thousand Four Hundred Sixty-Four Dollars (\$6,464) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent'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 Calvert, Docket No. 2011-0476-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 6 above, Six Thousand Four Hundred Sixty-Four Dollars (\$6,464) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including the timely submittal of signed and certified monthly DMRs and the timely submittal of signed and certified annual sludge reports, in accordance with TPDES Permit No. WQ0010095001, Monitoring and Reporting Requirements No. 1 and Sludge Provisions; and
 - b. 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. WQ0010095001 and Ordering Provision 3.a, 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 I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is 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
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
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 Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
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 Respondent if the Executive Director determines that the Respondent 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 Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the

Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

10. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
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

Robert D. Hyde
For the Executive Director

8/5/11
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of City of Calvert. I am authorized to agree to the attached Agreed Order on behalf of City of Calvert, 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, City of Calvert 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.

Marcus Greaves
Signature

July 1, 2011
Date

Marcus Greaves
Name (Printed or typed)
Authorized Representative of
City of Calvert

Mayor
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: 2011-0476-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Calvert
Penalty Amount:	Six Thousand Four Hundred Sixty-Four Dollars (\$6,464)
SEP Offset Amount:	Six Thousand Four Hundred Sixty-Four Dollars (\$6,464)
Type of SEP:	Custom (pre-approved concept)
Project Name:	Electronics and Used Tire Collection Event
Location of SEP:	Robertson County

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

1. Project Description

a. Project

Respondent shall hold a three-day event for the collection, recycling, or proper disposal of tires and residential electronic waste (“E-waste”) consisting of computers and televisions. Respondent shall offer a designated drop-off location at Old City Yard, Hanna Street, Calvert, Texas, where the public can drop off materials for disposal or recycling at no cost to the citizens. The event will be advertised in a local newspaper to increase public awareness of and participation in the event. Respondent shall collect, transport, dispose of, or recycle the collected materials at Brazos Valley Solid Waste Management Agency (Permit No. 1444C, RN100830090), 7600 Rock Prairie Road, College Station, Texas. The SEP Offset Amount will be used for the cost of a licensed contractor to transport and properly dispose of or recycle collected tires and E-waste, for directional signs at the drop off location(s), and for the cost of publication of the event. Labor shall be provided by the Respondent at no cost to the SEP.

The Respondent shall ensure that the event:

- is advertised to the public and includes the required enforcement statement;
- occurs during daylight hours;
- offers to the public a convenient drop-off location; and
- includes recycling and proper disposal tires and electronics.

The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations. Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs.

Respondent's signature affixed to this Agreed Order certifies that it has no prior commitment to do this project and that it is being done solely in an effort to settle this enforcement action.

b. Environmental Benefit

The tire collection portion of the SEP will provide a discernible environmental benefit by helping rid communities of the dangers and health threats associated with illegal tire sites.

The electronics recycling portion of the events will include recycling of household E-waste materials. E-waste materials may include computers and related information technologies such as workstations, scanners, printers, hand-held diagnostic and screening tools, cell phones, servers, and televisions, among many others. Cathode ray tubes ("CRT") are the picture tubes in computers, monitors and TVs. With the rapid evolution of technology, computers and TVs containing CRTs become obsolete in a short period of time and are simply discarded, often in landfills. A typical 17-inch CRT contains approximately two pounds of lead and larger CRTs may contain up to ten pounds of lead. E-waste can contain lead, mercury, cadmium, hexavalent chromium and brominated flame retardants.

c. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 365 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions taken to begin the project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made on the project during the previous 60-day period and setting forth a schedule for achieving completion of the project within the time-frame required in Section 2. *Performance Schedule*, above. Thereafter, Respondent shall submit progress reports to the TCEQ in the following increments and containing detailed information as set forth in the Reporting Schedule table below:

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project

Days from Effective Order Date	Information Required
90	Actions taken during previous 60-day period to implement the project
180	Actions taken during previous 90-day period to implement the project
270	Actions taken during previous 90-day period to implement the project
365	Notice of SEP completion

B. Final Report

Within 60 days after completion of SEP, and not later than 425 days after the effective date of the Agreed Order, Respondent shall submit a Final Report to the TCEQ, which includes:

1. An itemized list of expenditures and total of costs incurred to complete the tire and E-waste collection event;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list required in paragraph 3.B.1., above;
3. Copies of proof of advertisement for the collection event (the advertisement must include a statement that the SEP was performed as a result of a TCEQ enforcement action);
4. Dated photographs of the items collected;
5. Map showing exact location(s) of collection site(s) clearly marked. The map must be of sufficient detail to allow TCEQ staff to verify the location of the completed project;
6. Tally list of items collected, i.e. number of passenger tires, number of truck tires, number of computers, etc.;
7. Manifests are required to demonstrate proof of the proper disposal and/or recycling of the collected items;
8. A certified/notarized statement of quantifiable environmental benefit. Respondent must quantify the environmental benefit of the project; and
9. Any additional information and supporting documentation to demonstrate completion of the project in compliance with this SEP agreement.

C. Address

Respondent shall submit all SEP reports and any requested additional information to the following address:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
PO Box 13087
Austin, Texas 78711-31087

4. **Additional Information and Access**

Respondent shall provide additional information as required by TCEQ staff and shall allow access to all records related to the receipt and expenditure of the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. **Failure to Fully Perform**

If Respondent does not perform its obligations under this Attachment A in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 and 3 above, the Executive Director (“ED”) may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that Respondent failed to complete the project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and shall include on the check the docket number of this Agreed Order and note that it is for reimbursement of a SEP. Respondent shall make the check payable to “Texas Commission on Environmental Quality” and shall mail it to:

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

6. **Publicity**

Any public statements concerning this SEP made by or on behalf of 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.

7. **Clean Texas Program**

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

8. **Other SEPs by TCEQ or Other Agencies**

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