

**Executive Summary – Enforcement Matter – Case No. 41134**

**City of La Joya**

**RN101920361**

**Docket No. 2011-0244-MWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

City of La Joya, approximately 1.5 miles south-southwest of the intersection of United States Highway 83 and Farm-to-Market Road 2521, Hidalgo County

**Type of Operation:**

wastewater treatment plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** August 26, 2011

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$16,700

**Amount Deferred for Expedited Settlement:** \$3,340

**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:** \$13,360

Name of SEP: Tire Collection, Recycling, and Disposal Events

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

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**City of La Joya**  
**RN101920361**  
**Docket No. 2011-0244-MWD-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** December 1, 2010 and March 4, 2011

**Date(s) of NOE(s):** January 21, 2011

***Violation Information***

1. Failed to comply with permitted effluent limits for biochemical oxygen demand (5-day) and total suspended solids [Texas Pollutant Discharge Elimination System (“TPDES”) Permit No. WQ0012675001, Interim II Effluent Limitations and Monitoring Requirements No. 1, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a)].

2. Failed to submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to submit the sludge report for the monitoring period ending July 31, 2010 [30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0012675001, Sludge Provisions].

3. Failed to prevent the unauthorized discharge of treated wastewater. Specifically, the Respondent discharged the wastewater effluent to an on-site unpermitted field during the months of November 2009 through April 2010 [ TEX. WATER CODE § 26.121(a) and TPDES Permit No. WQ0012675001 Permit Conditions 2.g.].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**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. Immediately, cease the land application of effluent wastewater until proper authorization has been obtained.

b. Within 30 days:

i. Submit the annual sludge report for the monitoring period ending July 31, 2010; and

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- ii. 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 annual sludge reports.
  
- c. Within 90 days, submit certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0012675001 and Ordering Provision Nos. 2.a. through 2.b.ii, 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 limitations.

***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:** Cheryl Thompson, Enforcement Division, Enforcement Team 3, MC R-04, (817) 588-5886; Debra Barber, Enforcement Division, MC 219, (512) 239-0412.  
**TCEQ SEP Coordinator:** Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223  
**Respondent:** The Honorable William R. Leo, Mayor, City of La Joya, P.O. Box H, La Joya, Texas 78560  
Mike Alaniz, City Administrator, City of La Joya, P.O. Box H, La Joya, Texas 78560  
**Respondent's Attorney:** N/A



**Attachment A**  
**Docket Number: 2011-0244-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	City of La Joya
<b>Penalty Amount:</b>	Thirteen Thousand Three Hundred Sixty Dollars (\$13,360)
<b>SEP Offset Amount:</b>	Thirteen Thousand Three Hundred Sixty Dollars (\$13,360)
<b>Type of SEP:</b>	Custom (Pre-Approved Concept)
<b>Project Name:</b>	<i>Tire Collection, Recycling, and Disposal Events</i>
<b>Location of SEP:</b>	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 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

The Respondent shall hold three (3) one-day events for the collection, recycling, and proper disposal of used tires (the “Project”). The events shall be advertised in the local newspaper of largest circulation and shall include the required enforcement statement as stated in Section 6, *Publicity*, below. Citizens will be invited to drop off tires free of charge at a location convenient to local citizens located at the corner of Military Road and Garza Avenue in La Joya, Texas. Labor shall be provided by the Respondent at no cost to the SEP. The Respondent shall provide the necessary equipment to collect tires. The SEP Offset Amount shall be used for the cost of a licensed contractor to pick up and transport the tires to the Hidalgo County Landfill (Permit No. 1727; RN102003597), a proper disposal facility, located on Military Road off of Farm to Market Road 1427. The contractor will take the recyclable tires directly to an authorized tire recycling facility and provide proof of delivery to the City of La Joya. The SEP Offset Amount shall also be used for directional signs at the drop off locations, and for the cost of publication of the events.

The Respondent shall ensure that the events:

- are advertised to the public and include a statement that the projects are being performed as Supplemental Environmental Projects;
- occur during daylight hours;
- offer to the public convenient drop-off locations; and
- include transport and proper disposal of tires

The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations. The 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.

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

**C. Minimum Expenditure**

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

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin implementation of the SEP. The 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, the 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, the 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, the 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 the Project
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

Days from Effective Order Date	Information Required
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, the Respondent shall submit a Final Report to the TCEQ, which includes:

1. An itemized list of expenditures and total of costs incurred to complete each of the tire collection events;
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 each of the tire collection events (the advertisements must include a statement that the SEP was performed as a result of a TCEQ enforcement action);
4. Proof of publication of invitation for bids (and selection of competitive bids for the Project, if applicable);
5. Dated photographs showing the items collected; including before and after photos for each of the tire collection events;
6. Map showing exact location(s) of tire collection site(s) clearly marked. The map must be of sufficient detail to allow TCEQ staff to verify the location of the completed Project;
7. Tally list of items collected, i.e. number of passenger tires, number of truck tires, etc.;
8. Manifests sufficient to show proof of proper disposal and/or recycling of the collected items;
9. A certified/notarized statement of quantifiable environmental benefit. The Respondent must quantify the environmental benefit of the Project; and
10. Any additional information and supporting documentation to demonstrate completion of the Project in compliance with this SEP agreement.

**Copies of receipts, checks with associated invoices, and other documentation verifying appropriate expenditures and the completion of the Project must be submitted with the final report.**

C. Address

The 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

The 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. The 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 the 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 the Respondent failed to complete the Project, the 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. The 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 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.

#### 7. 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.

**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 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**

<b>DATES</b>	Assigned	4-Mar-2011	Screening	4-Mar-2011	EPA Due	
	PCW	4-Mar-2011				

<b>RESPONDENT/FACILITY INFORMATION</b>			
Respondent	City of La Joya		
Reg. Ent. Ref. No.	RN101920361		
Facility/Site Region	15-Harlingen	Major/Minor Source	Minor

<b>CASE INFORMATION</b>				
Enf./Case ID No.	41134	No. of Violations	3	
Docket No.	2011-0244-MWD-E	Order Type	1660	
Media Program(s)	Water Quality	Government/Non-Profit	Yes	
Multi-Media		Enf. Coordinator	Cheryl Thompson	
		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 10 months of self-reported effluent violations, two NOV's for same/similar violations, one NOV with dissimilar violations, and one Agreed Order with denial language.

**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: Recommend reduction in the penalty so that monthly self-reported effluent violations do not overly-impact the penalty amount.

**Final Penalty Amount**

**STATUTORY LIMIT ADJUSTMENT** **Final Assessed Penalty**

**DEFERRAL**  Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

**PAYABLE PENALTY**

Screening Date 4-Mar-2011

Docket No. 2011-0244-MWD-E

PCW

Respondent City of La Joya

Policy Revision 2 (September 2002)

Case ID No. 41134

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101920361

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

### 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> )	12	60%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <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)** 82%

#### >> 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 10 months of self-reported effluent violations, two NOVs for same/similar violations, one NOV with dissimilar violations, and one Agreed Order with denial language.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 82%

Screening Date 4-Mar-2011

Docket No. 2011-0244-MWD-E

PCW

Respondent City of La Joya

Policy Revision 2 (September 2002)

Case ID No. 41134

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101920361

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 1

Rule Cite(s) Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012675001, Interim II Effluent Limitations and Monitoring Requirements No. 1, 30 Tex. Admin. Code § 305.125(1) and Tex. Water Code § 26.121(a)

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on December 1, 2010. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual			X	10%
Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
				0%

Matrix Notes

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3 Number of violation days 304

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

Violation Base Penalty \$3,000

Three 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 \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,084

Violation Final Penalty Total \$5,010

This violation Final Assessed Penalty (adjusted for limits) \$5,010

# Economic Benefit Worksheet

**Respondent** City of La Joya  
**Case ID No.** 41134  
**Reg. Ent. Reference No.** RN101920361  
**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)	\$10,000	30-Sep-2009	30-Nov-2011	2.17	\$1,084	n/a	\$1,084

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 month the first non-compliant excursion was documented. 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

\$10,000

**TOTAL**

\$1,084

Screening Date 4-Mar-2011

Docket No. 2011-0244-MWD-E

PCW

Respondent City of La Joya

Policy Revision 2 (September 2002)

Case ID No. 41134

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101920361

Media [Statute] Water Quality

Enf. Coordinator Cheryl Thompson

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 305.125(17) and TPDES Permit No. WQ0012675001, Sludge Provisions

Violation Description Failed to submit monitoring results at the intervals specified in the permit. Specifically, the Respondent failed to submit the sludge report for the monitoring period ending July 31, 2010.

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			10%

Matrix Notes 100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1 Number of violation days 1

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,000

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$1,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$17

Violation Final Penalty Total \$1,670

This violation Final Assessed Penalty (adjusted for limits) \$1,670

## Economic Benefit Worksheet

**Respondent** City of La Joya  
**Case ID No.** 41134  
**Reg. Ent. Reference No.** RN101920361  
**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	\$250	1-Dec-2010	30-Nov-2011	1.00	\$12	n/a	\$12
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$100	1-Dec-2010	30-Nov-2011	1.00	\$5	n/a	\$5

Notes for DELAYED costs

Estimated cost to submit the missing sludge report (\$100) and to update the facility's operational guidance and to conduct employee training (\$250). Date required is the investigation date. Final date is the projected 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

\$350

**TOTAL**

\$17

Screening Date 4-Mar-2011  
 Respondent City of La Joya  
 Case ID No. 41134

Docket No. 2011-0244-MWD-E

PCW

Policy Revision 2 (September 2002)  
 PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101920361  
 Media [Statute] Water Quality  
 Enf. Coordinator Cheryl Thompson

Violation Number 3

Rule Cite(s) Tex. Water Code § 26.121 and TPDES Permit No. WQ0012675001 Permit Conditions 2.g.

Violation Description

Failed to prevent the unauthorized discharge of treated wastewater. Specifically, the Respondent discharged the wastewater effluent to an on-site unpermitted field during the months of November 2009 through April 2010.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0%

Matrix Notes

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 6

181 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$6,000

Six single events are recommended for the months of November 2009, December 2009, January 2010, February 2010, March 2010 and April 2010.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

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

Violation Subtotal \$6,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$584

Violation Final Penalty Total \$10,020

This violation Final Assessed Penalty (adjusted for limits) \$10,020

## Economic Benefit Worksheet

**Respondent** City of La Joya  
**Case ID No.** 41134  
**Reg. Ent. Reference No.** RN101920361  
**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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	\$5,000	30-Nov-2009	31-Mar-2012	2.33	\$584	n/a	\$584
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain authorization to land apply effluent wastewater. Date required is the date the violation began. Final date is the projected date of compliance.

### Avoided Costs

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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

**TOTAL**

\$584





# Compliance History

Customer/Respondent/Owner-Operator:	CN600704639 City of La Joya	Classification: AVERAGE	Rating: 6.03
Regulated Entity:	RN101920361 CITY OF LA JOYA	Classification: AVERAGE	Site Rating: 9.05
ID Number(s):	WASTEWATER PERMIT WASTEWATER EPA ID WASTEWATER LICENSING LICENSE		WQ0012675001 TX0127337 WQ0012675001
Location:	LA JOYA WW TREATMENT FACILITY LOCATED APPROX 1.5 MI S-SW OF INTX OF US HWY 83 AND FM 2521, HIDALGO COUNTY TX		
TCEQ Region:	REGION 15 - HARLINGEN		
Date Compliance History Prepared:	March 15, 2011		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	January 30, 2006 to January 30, 2011		
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History			
Name:	Cheryl Thompson	Phone:	(817) 588-5886

## 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: 9/1/2010 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: 04/14/2006  | ADMINORDER 2004-2110-MWD-E |
| Classification: Moderate  |                            |
| Citation: 30 TAC Chapter 305, SubChapter F 305.126(a)   |                            |
| Rqmt Prov: VI. Special Provisions, 3. (Page 17) PERMIT  |                            |
| Description: Failure to apply for a major permit amendment to increase the permitted flow when influent monitoring indicates the facility received wastewater in excess of 90 % of the permitted flow for three consecutive months.                 |                            |
| Classification: Moderate  |                            |
| Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)   |                            |
| Rqmt Prov: VI. Special Provisions PERMIT  |                            |
| Description: Failure to provide a means for measuring effluent flow that is applied to the irrigated land.  |                            |
| Classification: Moderate  |                            |
| Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)   |                            |
| Rqmt Prov: V. Conditions of the Permit PERMIT   |                            |
| Description: Failure to monitor pH.   |                            |
| Classification: Moderate  |                            |
| Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)   |                            |
| Rqmt Prov: VI. Special Provisions, 4. (Page 17) PERMIT  |                            |
| Description: Failure to optimize irrigation practices to prevent ponding of effluent on irrigation land.  |                            |
| Classification: Major   |                            |
| Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)   |                            |
| 30 TAC Chapter 305, SubChapter F 305.125(7)   |                            |
| Rqmt Prov: STANDARD PROVISIONS PERMIT   |                            |
| VI. Special Provisions PERMIT   |                            |
| Description: Failure to give notice to the executive director before physical alterations or additions to the permitted facility if such alterations or additions would require a permit amendment or result in a violation of permit requirements. |                            |
| Classification: Moderate  |                            |
| Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)   |                            |
| Rqmt Prov: SPECIAL PROVISIONS PERMIT  |                            |
| Special Provisions 2 and 7 PERMIT   |                            |

Description: Failure to conform to the Texas Commission on Environmental Quality "Design criteria for Sewerage Systems" requirements for stabilization ponds with regard to construct and levee design, and a minimum of 2 feet of freeboard shall be maintained.

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	08/16/2007	(565886)
2	10/03/2007	(606079)
3	10/03/2007	(606080)
4	10/03/2007	(606081)
5	10/03/2007	(606082)
6	10/03/2007	(606083)
7	10/03/2007	(606084)
8	10/03/2007	(606085)
9	10/03/2007	(606086)
10	10/03/2007	(606087)
11	10/03/2007	(606088)
12	10/03/2007	(606089)
13	03/21/2008	(638988)
14	10/03/2007	(678022)
15	04/02/2008	(679872)
16	08/07/2008	(683938)
17	06/03/2008	(696863)
18	06/03/2008	(696864)
19	06/03/2008	(696865)
20	06/03/2008	(696866)
21	06/03/2008	(696867)
22	06/03/2008	(696868)
23	06/03/2008	(696869)
24	06/03/2008	(696870)
25	09/23/2008	(703475)
26	06/20/2008	(718593)
27	02/25/2009	(724181)
28	07/01/2009	(748242)
29	04/28/2009	(773775)
30	12/08/2009	(784183)
31	02/08/2009	(821703)
32	02/08/2009	(821704)
33	08/07/2009	(821705)
34	10/05/2009	(821706)
35	12/07/2009	(821707)
36	02/08/2009	(821708)
37	12/07/2009	(821709)
38	02/10/2009	(821710)
39	08/10/2010	(844256)
40	08/23/2010	(876051)
41	08/23/2010	(876052)
42	08/23/2010	(876053)
43	08/23/2010	(876054)



	Operational Requirements, 1, Page 9. PERMIT		
Description:	Failure to properly operate and maintain the collection system.		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) Operational Requirements, 1, Page 9. PERMIT		
Description:	Failure to properly operate and maintain the treatment lagoons.		
Self Report?	NO		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 2D TWC Chapter 26, SubChapter A 26.121(a)(1) 2D TWC Chapter 26, SubChapter A 26.121(a)(3) 2D TWC Chapter 26, SubChapter A 26.121(b) 2D TWC Chapter 26, SubChapter A 26.121(c) 2D TWC Chapter 26, SubChapter A 26.121(d) 2D TWC Chapter 26, SubChapter A 26.121(e) 30 TAC Chapter 305, SubChapter F 305.125(4) 30 TAC Chapter 305, SubChapter F 305.125(5) Permit Conditions, 2. Compliance, g. PERMIT TWC Chapter 26 26.121 TWC Chapter 26 26.121(a)(2)		
Description:	Failure to prevent an unauthorized discharge of wastewater into or adjacent to any water in the state.		
Self Report?	NO		Classification: Minor
Citation:	30 TAC Chapter 305, SubChapter F 305.125(9) Monitoring and Reporting Requirements, PERMIT		
Description:	Failure to notify the executive director of any noncompliance which may endanger human health or safety, or the environment.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Operational Requirements, 1, Page 9 PERMIT		
Description:	Failure to accurately measure the flow according to the permit requirement.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 319, SubChapter A 319.4 Monitoring and Reporting Requirements, PERMIT		
Description:	Failure to conduct sampling and analyses on the parameters specified in the permit.		
Self Report?	NO		Classification: Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(1) Operational Requirements, 1, Page 9. PERMIT		
Description:	Failure to maintain process control records.		
Date	08/31/2009	(821706)	CN600704639
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	09/30/2009	(821707)	CN600704639
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	10/31/2009	(821709)	CN600704639
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	11/30/2009	(883642)	CN600704639
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	12/31/2009	(883643)	CN600704639
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	01/31/2010	(876051)	CN600704639
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		

Description:	30 TAC Chapter 305, SubChapter F 305.125(1)		
Date	02/28/2010	(876052)	CN600704639
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	(876053)	CN600704639
Self Report?	YES		Classification: Moderate
Citation:	2D TWC Chapter 26, SubChapter A 26.121(a)		
	30 TAC Chapter 305, SubChapter F 305.125(1)		
Description:	Failure to meet the limit for one or more permit parameter		
Date	04/30/2010	(876054)	CN600704639
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	(883641)	CN600704639
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.

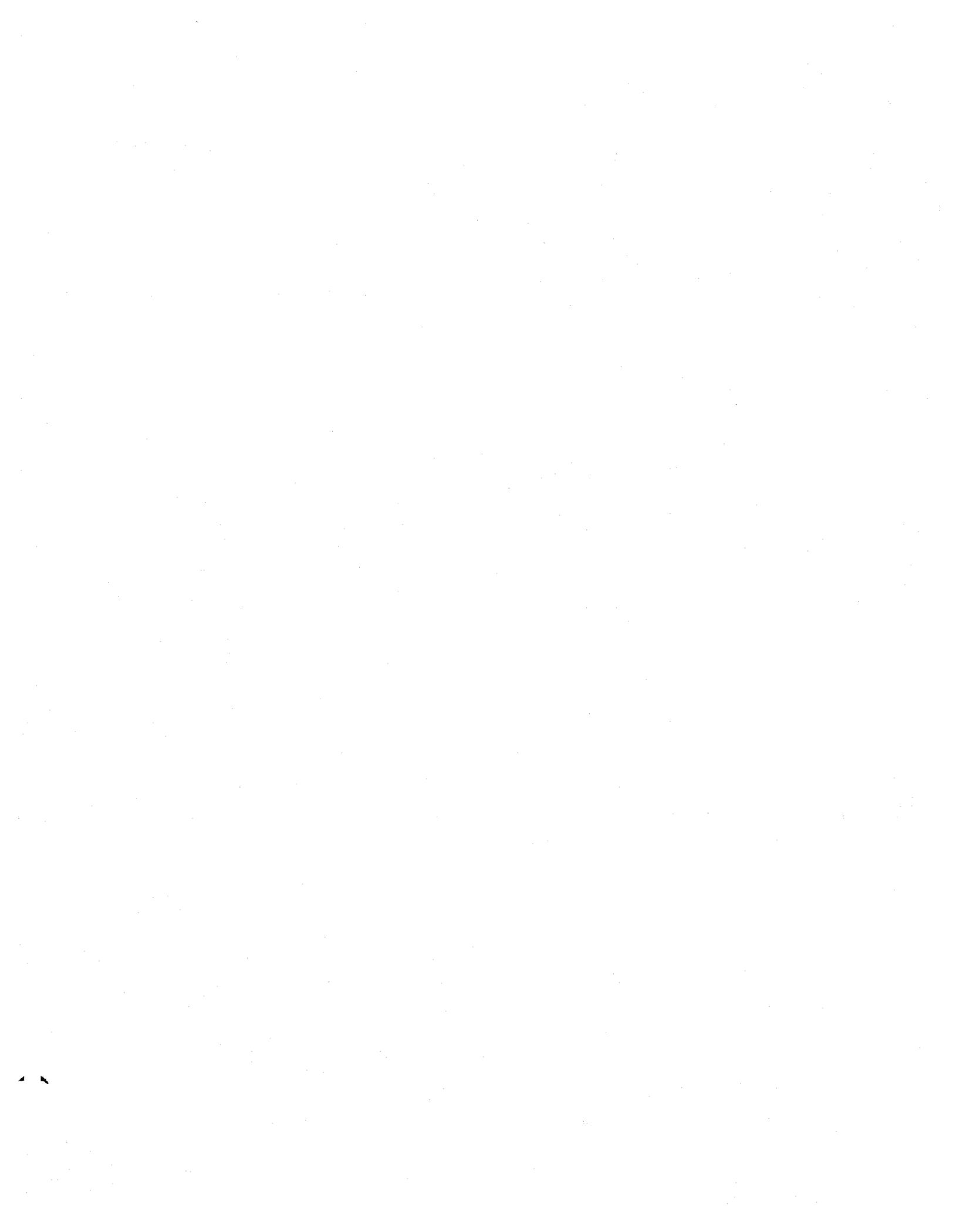
N/A

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 LA JOYA  
RN101920361**

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

## **AGREED ORDER DOCKET NO. 2011-0244-MWD-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding City of La Joya ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located approximately 1.5 miles south-southwest of the intersection of United States Highway 83 and Farm-to-Market Road 2521 in Hidalgo 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. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about January 26, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Sixteen Thousand Seven Hundred Dollars (\$16,700) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Three Thousand Three Hundred Forty Dollars (\$3,340) is

deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Thirteen Thousand Three Hundred Sixty Dollars (\$13,360) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. 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.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to comply with permitted effluent limits, in violation of Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012675001, Interim II Effluent Limitations and Monitoring Requirements No. 1, 30 TEX. ADMIN. CODE § 305.125(1) and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on December 1, 2010, and shown in the table below:

	BOD <sub>5</sub> Daily Average Concentration	TSS Daily Average Concentration
<i>Month/Year</i>	30 mg/L	90 mg/L
September 2009	c	117
October 2009	34	136
November 2009	39	130
December 2009	33	139
January 2010	38	149
February 2010	51	150
March 2010	44	163
April 2010	49	116

milligrams per liter= mg/L  
 compliant = c  
 TSS= total suspended solids  
 BOD<sub>5</sub>=bio chemical oxygen demand (5-day)

2. Failed to submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE § 305.125(17) and TPDES Permit No. WQ0012675001, Sludge Provisions, as documented during a record review conducted on December 1, 2010. Specifically, the Respondent failed to submit the sludge report for the monitoring period ending July 31, 2010.
3. Failed to prevent the unauthorized discharge of treated wastewater, in violation of TEX. WATER CODE § 26.121(a) and TPDES Permit No. WQ0012675001 Permit Conditions 2.g., as documented during a record review conducted on March 4, 2011. Specifically, the Respondent discharged the wastewater effluent to an on-site unpermitted field during the months of November 2009 through April 2010.

### III. DENIALS

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

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to

"TCEQ" and shall be sent with the notation "Re: City of La Joya, Docket No. 2011-0244-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 Jurisdiction and Stipulations, Section I, Paragraph 6 above, Thirteen Thousand Three Hundred Sixty Dollars (\$13,360) of the assessed administrative penalty shall be offset with the condition that Respondent implement the SEP defined in Attachment A, incorporated herein by reference. 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. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Immediately cease the land application of effluent wastewater until proper authorization has been obtained;
  - b. Within 30 days after the effective date of the Agreed Order:
    - i. Submit the annual sludge report for the monitoring period ending July 31, 2010 to:

Compliance Monitoring Section  
Enforcement Division, MC 224  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087
    - ii. 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 annual sludge reports, in accordance with TPDES Permit No. WQ0012675001 Sludge Provisions; and
  - c. Within 90 days after the effective date of this Agreed Order, submit certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0012675001 and Ordering Provision Nos. 3.a. through 3.b.ii, 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 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  
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 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. 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.

8. 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.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

Richard D. Hyle  
For the Executive Director

10/6/11  
Date

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

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

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

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

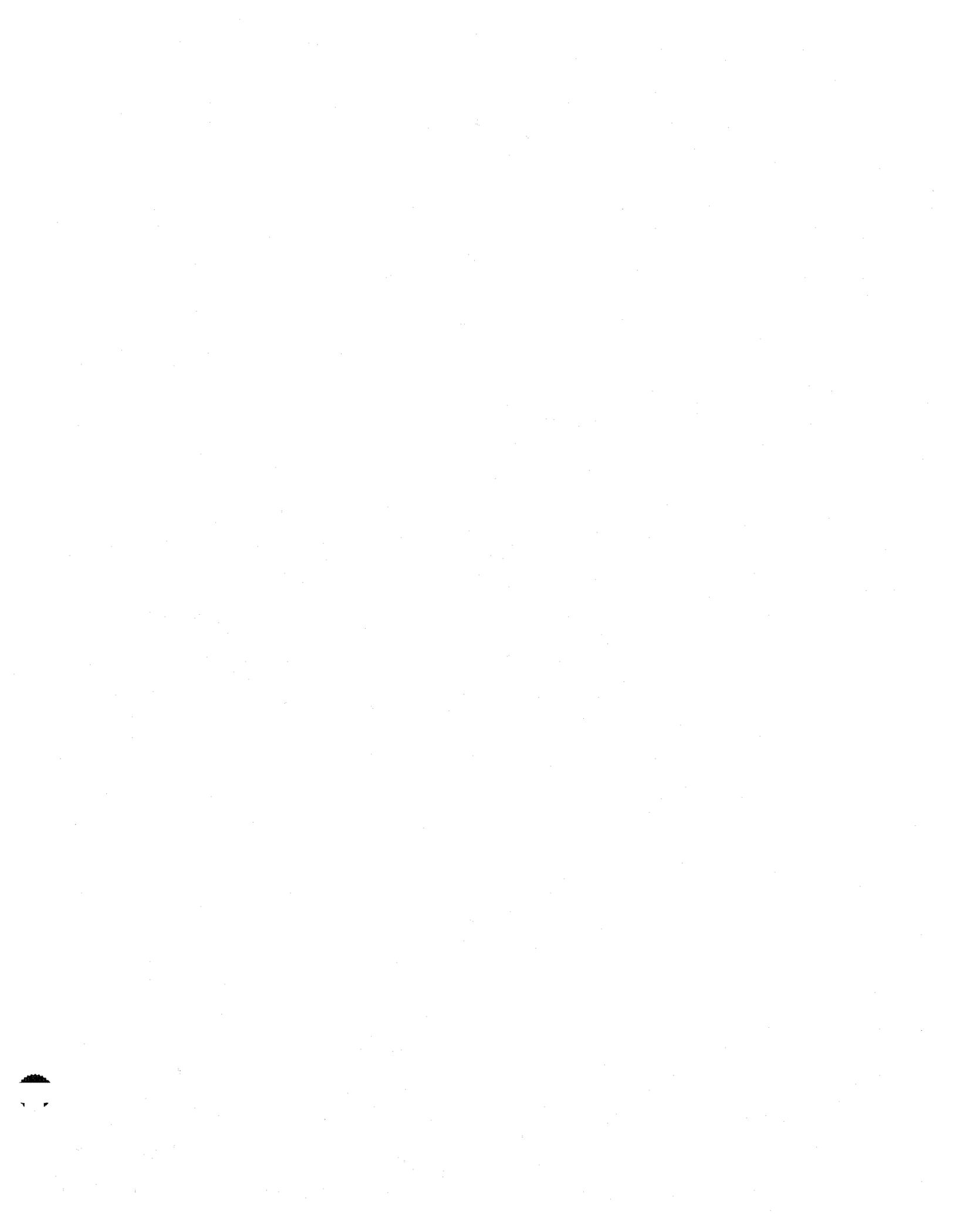
Mike Alaniz  
Signature

07-14-11  
Date

Mike Alaniz  
Name (Printed or typed)  
Authorized Representative of  
City of La Joya

City Adm.  
Title

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



**Attachment A**  
**Docket Number: 2011-0244-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

<b>Respondent:</b>	City of La Joya
<b>Penalty Amount:</b>	Thirteen Thousand Three Hundred Sixty Dollars (\$13,360)
<b>SEP Offset Amount:</b>	Thirteen Thousand Three Hundred Sixty Dollars (\$13,360)
<b>Type of SEP:</b>	Custom (Pre-Approved Concept)
<b>Project Name:</b>	<i>Tire Collection, Recycling, and Disposal Events</i>
<b>Location of SEP:</b>	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 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

The Respondent shall hold three (3) one-day events for the collection, recycling, and proper disposal of used tires (the “Project”). The events shall be advertised in the local newspaper of largest circulation and shall include the required enforcement statement as stated in Section 6, *Publicity*, below. Citizens will be invited to drop off tires free of charge at a location convenient to local citizens located at the corner of Military Road and Garza Avenue in La Joya, Texas. Labor shall be provided by the Respondent at no cost to the SEP. The Respondent shall provide the necessary equipment to collect tires. The SEP Offset Amount shall be used for the cost of a licensed contractor to pick up and transport the tires to the Hidalgo County Landfill (Permit No. 1727; RN102003597), a proper disposal facility, located on Military Road off of Farm to Market Road 1427. The contractor will take the recyclable tires directly to an authorized tire recycling facility and provide proof of delivery to the City of La Joya. The SEP Offset Amount shall also be used for directional signs at the drop off locations, and for the cost of publication of the events.

The Respondent shall ensure that the events:

- are advertised to the public and include a statement that the projects are being performed as Supplemental Environmental Projects;
- occur during daylight hours;
- offer to the public convenient drop-off locations; and
- include transport and proper disposal of tires

The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations. The 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.

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

**C. Minimum Expenditure**

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

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin implementation of the SEP. The 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, the 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, the 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, the 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 the Project
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

Days from Effective Order Date	Information Required
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, the Respondent shall submit a Final Report to the TCEQ, which includes:

1. An itemized list of expenditures and total of costs incurred to complete each of the tire collection events;
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 each of the tire collection events (the advertisements must include a statement that the SEP was performed as a result of a TCEQ enforcement action);
4. Proof of publication of invitation for bids (and selection of competitive bids for the Project, if applicable);
5. Dated photographs showing the items collected; including before and after photos for each of the tire collection events;
6. Map showing exact location(s) of tire collection site(s) clearly marked. The map must be of sufficient detail to allow TCEQ staff to verify the location of the completed Project;
7. Tally list of items collected, i.e. number of passenger tires, number of truck tires, etc.;
8. Manifests sufficient to show proof of proper disposal and/or recycling of the collected items;
9. A certified/notarized statement of quantifiable environmental benefit. The Respondent must quantify the environmental benefit of the Project; and
10. Any additional information and supporting documentation to demonstrate completion of the Project in compliance with this SEP agreement.

**Copies of receipts, checks with associated invoices, and other documentation verifying appropriate expenditures and the completion of the Project must be submitted with the final report.**

C. Address

The 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

The 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. The 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 the 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 the Respondent failed to complete the Project, the 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. The 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 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.

#### 7. 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.

**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 the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.