EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-1096-MWD-E **TCEQ ID:** RN102078128 **CASE NO.:** 39982

RESPONDENT NAME: City of Liberty

ORDER TYPE:		
__1660 AGREED ORDER	X FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
X WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: City of Liberty Wastewater Treatment Plant, approximately 0.5 mile west of the intersection of Farm-to-Market Road 2684 and Farm-to-Market Road 3361 south of Liberty, Liberty County

TYPE OF OPERATION: Domestic wastewater treatment facility

SMALL BUSINESS: ___ Yes _X_ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on December 20, 2010. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223
TCEQ Enforcement Coordinator: Mr. Jordan Jones, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-2569; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
Respondent: The Honorable Carl Pickett, Mayor, City of Liberty, 1829 Sam Houston Street, Liberty, Texas 77575
Mr. Ronald Wood, City Manager, City of Liberty, 1829 Sam Houston Street, Liberty, Texas 77575
Respondent's Attorney: Mr. Brad Castleberry, Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, Texas 78701

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint __ Routine __ Enforcement Follow-up X Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** April 12, 2010 **Date of NOV/NOE Relating to this Case:** July 2, 2010 (NOE) **Background Facts:** This was a records review. **WATER** 1) Failed to comply with permitted effluent limits for Total Mercury [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010108001 Effluent Limitations and Monitoring Requirements No. 1]. 2) Failed to submit monitoring results at the intervals specified in the permit [30 TEX. ADMIN. CODE §§ 305.125(17) and 319.1 and TPDES Permit No. WQ0010108001, Monitoring and Reporting Requirements No. 1]. 3) Failed to submit a complete biomonitoring report [30 TEX. ADMIN. CODE §§ 305.125(17) and 319.1 and TPDES Permit No. WQ0010108001, Biomonitoring Requirements No. 3].	**Total Assessed:** $36,733 **Total Deferred:** $0 __Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $36,733 **Total Paid to General Revenue:** $0 **Compliance History Classifications:** Person/CN – Average Site/RN – Average **Major Source:** X Yes __ No **Applicable Penalty Policy:** September 2002 **Findings Orders Justification:** Human health or the environment has been exposed to pollutants which exceed levels that are protective.	**Corrective Actions Taken:** The Executive Director recognizes that the Respondent submitted the missing reports for the monitoring periods ending June 30, 2009, December 31, 2009, and April 30, 2010 on July 9, 2010. **Ordering Provisions:** 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 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 effluent discharge monitoring reports, annual toxicity reports, and semiannual biomonitoring reports; b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provision a.; and c. 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. WQ0010108001 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.

Additional ID No(s).: WQ0010108001

Attachment A
Docket Number: 2010-1096-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Liberty
Penalty Amount:	Thirty-Six Thousand Seven Hundred Thirty-Three Dollars ($36,733)
SEP Offset Amount:	Thirty-Six Thousand Seven Hundred Thirty-Three Dollars ($36,733)
Type of SEP:	Custom (repair or replace private sewer lines for low-income homeowners)
Location of SEP:	Liberty County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for the Respondent to perform 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 repair or replace failing or inadequately designed private sewer lines, access units, and clean-outs for low-income residents in Liberty County. The SEP Offset Amount will be used for the cost of equipment and labor and to purchase new materials to repair or replace lines for a minimum of 40 low-income residences. The failure of these existing lines may result in overflows of untreated sewage to the environment, causing unsanitary conditions and environmental concerns. The homeowners will not be charged for any portion of the cost of this SEP.

The Respondent shall perform this project in accordance with all federal, state and local environmental laws and regulations

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action. The Respondent further certifies that it materials used or purchased will be solely for the performance of this SEP.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by preventing the release of sewage into the environment. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminths (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

People can be exposed through:

- Sewage in drinking water sources.
- Direct contact in areas of public access such as basements, lawns or streets, or waters used for recreation.
- Shellfish harvested from areas contaminated by raw sewage.
- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

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 Attachment A. The SEP Offset Amount will be used to pay for the associated labor, equipment, and materials, according to TCEQ expenditure restrictions on the use of SEP funds. 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.

Subject to previously stated restrictions on the use of SEP monies and to the extent it can be documented, the Respondent may, upon advance written approval by TCEQ, receive credit for the hours its employees and equipment are used after hours or weekends in implementing the SEP. In order to receive approval for overtime, the Respondent must show reasonable justification for overtime consideration. The Respondent shall not receive credit for volunteer labor or equipment. The Respondent shall also not receive credit for gratuities and/or inducements for volunteers.

The Respondent understands that it may be required to spend more than the SEP Offset Amount in order to complete this SEP. The Respondent also understands that if it does not spend at least the SEP Offset Amount on the SEP; it must pay the shortfall to the TCEQ General Revenue Fund.

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 perform the SEP in accordance with the schedule shown in the Performance Schedule Deliverable table below, and shall have completed the SEP in its entirety **within one year** following the effective date of this Agreed Order.

Days from Effective Order Date	Percentage of Project to Be Completed	Performance Schedule Deliverable
30	Begin	Notice of Commencement describing actions taken to begin project.
90	1/4	Identification/List of at least 40 low-income residences and completion of a schedule for work to be done.
180	1/2	Provide TCEQ with **low-income verification** of residences receiving service. Replacement of at least ½ of eligible private sewer lines.
270	3/4	Replacement of at least ¾ of eligible private sewer lines.
365	Completion	Final completion of SEP with Final Report to be provided within 30 days of completion date, as described in Section 3.B., below.

3. Reporting

A. Progress Reports

The Respondent shall submit Progress Reports to the TCEQ SEP Coordinator on or before the schedule provided in the Progress Report Deliverable table below.

Days from Effective Order Date	Progress Report Deliverable
30	Notice of Commencement describing actions being taken to begin project.
90	Second Progress Report to provide report of actions taken to implement project.
180	Third Progress Report to provide report of actions taken to implement project.
270	Fourth Progress Report to provide report of actions taken to implement project.
365	Notice of SEP Completion, with Final Report to follow within 30 days of completion of project.

B. Final Report

Within 30 days after completion of the project, the Respondent shall submit a report to the TCEQ which includes:

1. Verification documentation for **Low-Income Status**, according to HUD guidelines;
2. Map showing each location of low-income residence receiving service clearly marked with physical address;
3. Total number of residences receiving private sewer line replacement;
4. An itemized list of all expenditures and costs incurred; include the following:
    a. Copies of all invoices;
    b. Copies of all paid receipts; and
    c. Copies of all cleared checks for the amount on invoice or receipt;

5. A summary total of the amounts of all costs incurred per residence;
6. A grand total for all costs;
7. Work will be conducted during regular work hours Monday through Friday. If the Respondent requests to receive credit for overtime, it must have been approved by SEP Coordinator prior to work performed. If overtime is granted, time records will include the following:
    a. Name(s) of employee(s);
    b. Total hours worked;
    c. Rate of pay; and
    d. Copies of time sheet records documenting actual hours worked
        i. certified by a supervisor; and
        ii. confirmed by Respondent's Payroll section;
8. Complete mileage log documentation, including name of destination, purpose of work; total miles driven, and beginning and ending odometer readings for all City vehicles used in project;
9. If work is contracted out, must have at least three (3) bids with proposals;
10. Gas receipts for rented equipment, if applicable;
11. Photographs **before, during and after** the project;
12. A statement of quantifiable environmental benefits; and
13. Any additional information the Respondent believes or that TCEQ requests to demonstrate compliance with this Attachment A

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
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

The Respondent shall provide any additional information required by TCEQ staff and allow access to all records related to the receipt and expenditure of SEP funds. The Respondent shall also allow a representative of the TCEQ access to the site of any work being financed in whole or in part by SEP funds. This provision survives the termination of this Agreed Order.

5. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

In the event of incomplete performance, the Respondent shall submit a check for any amount due with a notation that the payment is for a "SEP Refund", and the docket number of the case. The Respondent shall make the check out to "Texas Commission on Environmental Quality" and mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. 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. 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 identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other orders 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	6-Jul-2010				
PCW	7-Jul-2010	Screening	6-Jul-2010	EPA Due	5-Jun-2010

RESPONDENT/FACILITY INFORMATION

Respondent	City of Liberty		
Reg. Ent. Ref. No.	RN102078128		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	39982	No. of Violations	3
Docket No.	2010-1096-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jordan Jones
		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* **$20,300**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History **81.0%** Enhancement *Subtotals 2, 3, & 7* **$16,443**

Notes: Enhancement for 11 self-reported effluent violations, three NOVs with dissimilar violations, and one agreed order with denial language.

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

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments *Subtotal 5* **$10**

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

Total EB Amounts $817
Approx. Cost of Compliance $10,950

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 *Final Subtotal* **$36,733**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$36,733**

STATUTORY LIMIT ADJUSTMENT *Final Assessed Penalty* **$36,733**

DEFERRAL **0.0%** Reduction *Adjustment* **$0**

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

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY **$36,733**

Screening Date 6-Jul-2010 **Docket No.** 2010-1096-MWD-E **PCW**

Respondent City of Liberty *Policy Revision 2 (September 2002)*

Case ID No. 39982 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102078128

Media [Statute] Water Quality

Enf. Coordinator Jordan Jones

Compliance History Worksheet

>> Compliance History *Site* Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	11	55%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	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 (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of*	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

		Please Enter Yes or No	
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 81%

>> 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 11 self-reported effluent violations, three NOVs with dissimilar violations, and one agreed order with denial language.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 81%

Screening Date 6-Jul-2010 **Docket No.** 2010-1096-MWD-E **PCW**

Respondent City of Liberty *Policy Revision 2 (September 2002)*

Case ID No. 39982 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102078128

Media [Statute] Water Quality

Enf. Coordinator Jordan Jones

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. WQ0010108001 Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on April 12, 2010, and shown in the attached table.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual	x		
Potential			

Percent 100%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: A simplified model was used to evaluate mercury to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors.

Adjustment $0

$10,000

Violation Events

Number of Violation Events 2 | 61 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $20,000

Two monthly 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 $20,000

Economic Benefit (EB) for this violation

Estimated EB Amount $749

Statutory Limit Test

Violation Final Penalty Total $36,200

This violation Final Assessed Penalty (adjusted for limits) $36,200

Economic Benefit Worksheet

Respondent City of Liberty
Case ID No. 39982
Req. Ent. Reference No. RN102078128
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost (No commas or $)	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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	$10,000	30-Nov-2009	31-May-2011	1.50	$749	n/a	$749
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 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 $749

Screening Date 6-Jul-2010 **Docket No.** 2010-1096-MWD-E **PCW**

Respondent City of Liberty *Policy Revision 2 (September 2002)*

Case ID No. 39982 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102078128

Media [Statute] Water Quality

Enf. Coordinator Jordan Jones

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(17) and 319.1 and TPDES Permit No. WQ0010108001, Monitoring and Reporting Requirements No. 1

Violation Description Failed to timely submit monitoring results at the intervals specified in the permit, as documented during a record review on April 12, 2010. Specifically, the Respondent failed to timely submit the annual toxicity report for the monitoring period ending December 31, 2009 and the monthly effluent discharge monitoring report for the monitoring period ending April 30, 2010.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

OR

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: Less than 30% of the rule requirement was not met.

Adjustment $9,900

$100

Violation Events

Number of Violation Events: 2

61 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $200

Two single events are recommended, one for each report.

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 $200

Economic Benefit (EB) for this violation

Estimated EB Amount $68

Statutory Limit Test

Violation Final Penalty Total $362

This violation Final Assessed Penalty (adjusted for limits) $362

Economic Benefit Worksheet

Respondent City of Liberty
Case ID No. 39982
Reg. Ent. Reference No. RN102078128
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	$500	30-Apr-2009	30-Apr-2011	2.00	$50	n/a	$50
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)	$300	30-Apr-2009	9-Jul-2010	1.19	$18	n/a	$18

Notes for DELAYED costs The estimated cost to conduct employee training and to submit and prepare the reports. Date Required is the date the first report was due. Final Date is the estimated date of compliance to conduct training and the date the reports were submitted.

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 $800

TOTAL $68

Screening Date 6-Jul-2010 **Docket No.** 2010-1096-MWD-E **PCW**

Respondent City of Liberty *Policy Revision 2 (September 2002)*

Case ID No. 39982 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102078128

Media [Statute] Water Quality

Enf. Coordinator Jordan Jones

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 305.125(17) and 319.1 and TPDES Permit No. WQ0010108001, Biomonitoring Requirements No. 3

Violation Description Failed to submit a complete semiannual biomonitoring report for the monitoring period ending June 30, 2009, as documented during a record review conducted on April 12, 2010. Specifically, the Respondent failed to include the the daily minimum sub-lethal and lethal effect and monthly minimum average for 7-day ceriodaphnia.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor
			x

Percent 1%

Matrix Notes: Less than 30% of the rule requirement was not met.

Adjustment $9,900

$100

Violation Events

Number of Violation Events 1 — 367 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty $100

One single event is recommended for one report.

Good Faith Efforts to Comply

10.0% Reduction $10

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

Notes: The revised report was received on July 9, 2010.

Violation Subtotal $90

Economic Benefit (EB) for this violation

Estimated EB Amount $7

Statutory Limit Test

Violation Final Penalty Total $171

This violation Final Assessed Penalty (adjusted for limits) $171

Economic Benefit Worksheet

Respondent City of Liberty
Case ID No. 39982
Reg. Ent. Reference No. RN102078128
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				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)	$150	20-Jul-2009	9-Jul-2010	0.97	$7	n/a	$7

Notes for DELAYED costs: The estimated cost to submit and prepare the complete report. Date Required is the date the report was due. Final date is the date the revised report was submitted.

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 $150

TOTAL $7

City of Liberty
Docket No. 2010-1096-MWD-E
RN102078128; TPDES Permit No. WQ0010108001
Violation Table

	Total Mercury Daily Average Concentration 0.00021 mg/L	Total Mercury Daily Maximum Concentration 0.00044 mg/L	Total Mercury Daily Average Loading 0.004 lbs/day
November 30 , 2009	0.06004	0.00337	0.053
December 31, 2009	0.0017	0.0702	1.08
mg/L = milligrams per Liter lbs/day = pounds per day			

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600575278	City of Liberty	Classification: AVERAGE	Rating: 2.66
Regulated Entity:	RN102078128	CITY OF LIBERTY WASTEWATER TREATMENT PLANT	Classification: AVERAGE	Site Rating: 1.26

ID Number(s):	WASTEWATER	PERMIT	WQ0010108001
	WASTEWATER	EPA ID	TX0074284
	WASTEWATER LICENSING	LICENSE	WQ0010108001

Location: LOCATED APPROXIMATELY 0.5 MILE WEST OF THE INTERSECTION OF FARM-TO-MARKET ROAD 2684 AND FARM-TO-MARKET ROAD 3361 SOUTH OF THE CITY OF LIBERTY IN LIBERTY COUNTY, TEXAS

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: July 06, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 06, 2005 to July 06, 2010

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

Name: Jordan Jones Phone: 512-239-2569

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

Effective Date: 02/18/2008 ADMINORDER 2007-1359-MWD-E
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: Effluent Limits PERMIT
Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-

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	08/19/2005	(444657)
2	09/12/2005	(444658)
3	10/14/2005	(475429)
4	11/14/2005	(475430)
5	12/01/2005	(475432)
6	12/16/2005	(475431)
7	02/14/2006	(475427)
8	03/20/2006	(475428)
9	04/13/2006	(502904)
10	05/10/2006	(502905)
11	05/15/2006	(460831)
12	05/18/2006	(502907)
13	06/14/2006	(502906)
14	08/18/2006	(525241)
15	09/18/2006	(550025)
16	10/06/2006	(514177)
17	10/13/2006	(550026)
18	11/15/2006	(550027)
19	11/27/2006	(550029)
20	12/11/2006	(533389)
21	12/14/2006	(550028)
22	01/31/2007	(537332)
23	02/07/2007	(539182)

24	02/13/2007	(584745)
25	03/12/2007	(584746)
26	04/11/2007	(584747)
27	05/10/2007	(584748)
28	06/11/2007	(584749)
29	07/09/2007	(604328)
30	08/13/2007	(604329)
31	08/17/2007	(570262)
32	09/11/2007	(604330)
33	10/08/2007	(623341)
34	11/16/2007	(623342)
35	12/10/2007	(623343)
36	12/14/2007	(623344)
37	02/15/2008	(674685)
38	02/19/2008	(618451)
39	03/17/2008	(693006)
40	04/08/2008	(693007)
41	05/12/2008	(693008)
42	06/11/2008	(714218)
43	07/08/2008	(714219)
44	07/11/2008	(685259)
45	08/14/2008	(714220)
46	09/05/2008	(714221)
47	10/09/2008	(730216)
48	11/07/2008	(730217)
49	12/09/2008	(730219)
50	12/11/2008	(730218)
51	01/08/2009	(721610)
52	02/10/2009	(753423)
53	03/03/2009	(753424)
54	04/13/2009	(770925)
55	05/12/2009	(812593)
56	06/01/2009	(812595)
57	06/09/2009	(812594)
58	08/21/2009	(812596)
59	09/09/2009	(812597)
60	10/15/2009	(812598)
61	11/12/2009	(812599)
62	12/04/2009	(812600)
63	01/11/2010	(812601)
64	02/08/2010	(812592)
65	06/21/2010	(762686)
66	07/02/2010	(798991)

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

Date: 12/31/2005 (475432) CN600575278

Self Report? YES Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F
TWC Chapter 26 26.121(a)

Description: Failure to meet the limit for one or more permit parameter

Date: 05/15/2006 (460831) CN600575278

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Monitoring & Reporting, P. 4, No. 3a PERMIT

Description: Failure to properly maintain the flow measuring devices.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.6
30 TAC Chapter 319, SubChapter A 319.9(c)

Description: Failure to perform the required quality assurance/quality control (QA/QC) procedures for total chlorine residual.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 317 317.6(b)(1)(D)
Description: Failure to provide self-contained breathing apparatus (SCBA) for use by plant personnel as required.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)
Description: Failure to correctly calculate the effluent loadings on the December 2005 discharge monitoring report (DMR).

Date: 05/31/2006 (502906) CN600575278
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 10/06/2006 (514177) CN600575278
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 319, SubChapter C 319.302(c)
Description: Failure to submit a public notice of a spill that is greater than 100,000 to the local media.

Date: 02/28/2007 (584746) CN600575278
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 (584747) CN600575278
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2007 (584749) CN600575278
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2007 (604330) CN600575278
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 (623342) CN600575278
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2008 (714218) CN600575278
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: 07/14/2008 (685259) CN600575278
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)
30 TAC Chapter 319, SubChapter C 319.302(b)(3)
M&RR, P. 5, No. 7 PERMIT
Description: Failure to report all unauthorized discharges (UD) of wastewater from the collection system within established Agency timeframes.

Date: 09/30/2008 (730216) CN600575278
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 (812600) CN600575278
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 (812601) CN600575278

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

K. Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

IN THE MATTER OF AN	**§**	**BEFORE THE**
ENFORCEMENT ACTION	**§**	
CONCERNING	**§**	**TEXAS COMMISSION ON**
CITY OF LIBERTY	**§**	
RN102078128	**§**	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2010-1096-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 Liberty ("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 represented by Brad Castleberry of the law firm of Lloyd Gosselink Rochelle & Townsend, P.C. presented this agreement to the Commission.

The Respondent understands that they have 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 approximately 0.5 mile west of the intersection of Farm-to-Market Road 2684 and Farm-to-Market Road 3361 south of Liberty, Liberty 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 April 12 ,2010, TCEQ staff documented the Respondent exceeded the permitted effluent limits as depicted in the table below:

	Total Mercury Daily Average Concentration 0.00021 mg/L	Total Mercury Daily Maximum Concentration 0.00044 mg/L	Total Mercury Daily Average Loading 0.004 lbs/day
November 30 , 2009	0.06004	0.00337	0.053
December 31, 2009	0.0017	0.0702	1.08
mg/L = milligrams per Liter lbs/day = pounds per day			

4. During a record review on April 12, 2010, TCEQ staff documented the Respondent did not timely submit the annual toxicity report for the monitoring period ending December 31, 2009 and the monthly effluent discharge monitoring report for the monitoring period ending April 30, 2010.

5. During a record review on April 12, 2010, TCEQ staff documented the Respondent did not submit a complete semiannual biomonitoring report for the monitoring period ending June 30, 2009. Specifically, the Respondent failed to include the daily minimum sub-lethal and lethal effect and monthly minimum average for 7-day ceriodaphnia.

6. The Respondent received notice of the violations on July 5, 2010.

7. The Executive Director recognizes that the Respondent submitted the missing reports for the monitoring periods ending June 30, 2009, December 31, 2009, and April 30, 2010 on July 9, 2010.

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 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. WQ0010108001 Effluent Limitations and Monitoring Requirements No. 1.

3. As evidenced by Findings of Fact No. 4, the Respondent failed to submit monitoring results at the intervals specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(17) and 319.1 and TPDES Permit No. WQ0010108001, Monitoring and Reporting Requirements No. 1.

4. As evidenced by Findings of Fact No. 5, the Respondent failed to submit a complete biomonitoring report, in violation of 30 TEX. ADMIN. CODE §§ 305.125(17) and 319.1 and TPDES Permit No. WQ0010108001, Biomonitoring Requirements No. 3.

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 Thirty-Six Thousand Seven Hundred Thirty-Three Dollars ($36,733) 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. Thirty-Six Thousand Seven Hundred Thirty-Three Dollars ($36,733) shall be conditionally offset by the City of Liberty's completion of a Supplemental Envioronmental 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 Thirty-Six Thousand Seven Hundred Thirty-Three Dollars ($36,733) 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 Liberty, Docket No. 2010-1096-MWD-E" to:

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

2. The City of Liberty shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section II, Paragraph 6 above, Thirty-Six Thousand Seven Hundred Thirty-Three Dollars ($36,733) 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. It is further ordered that 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 effluent discharge monitoring reports, annual toxicity reports, and semiannual biomonitoring reports, in accordance with TPDES Permit No. WQ0010108001;

b. Within 45 days after the effective date of this Agreed Order, submit written certification of compliance with Ordering Provisions 3.a. as described in Ordering Provision 3.c. below; and

c. 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. WQ0010108001 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 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
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

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 multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.

11. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

_____
For the Commission

_____ 12/6/2010
For the Executive Director Date

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

_____ October 13, 2010
Signature Date

CARL PICKETT _____ MAYOR
Name (Printed or typed) Title
Authorized Representative of
City of Liberty

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: 2010-1096-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Liberty
Penalty Amount:	Thirty-Six Thousand Seven Hundred Thirty-Three Dollars ($36,733)
SEP Offset Amount:	Thirty-Six Thousand Seven Hundred Thirty-Three Dollars ($36,733)
Type of SEP:	Custom (repair or replace private sewer lines for low-income homeowners)
Location of SEP:	Liberty County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for the Respondent to perform 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 repair or replace failing or inadequately designed private sewer lines, access units, and clean-outs for low-income residents in Liberty County. The SEP Offset Amount will be used for the cost of equipment and labor and to purchase new materials to repair or replace lines for a minimum of 40 low-income residences. The failure of these existing lines may result in overflows of untreated sewage to the environment, causing unsanitary conditions and environmental concerns. The homeowners will not be charged for any portion of the cost of this SEP.

The Respondent shall perform this project in accordance with all federal, state and local environmental laws and regulations

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action. The Respondent further certifies that it materials used or purchased will be solely for the performance of this SEP.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by preventing the release of sewage into the environment. Raw sewage can carry bacteria, viruses, protozoa (parasitic organisms), helminths (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

People can be exposed through:

- Sewage in drinking water sources.
- Direct contact in areas of public access such as basements, lawns or streets, or waters used for recreation.
- Shellfish harvested from areas contaminated by raw sewage.
- Inhalation and skin absorption.

Sewage overflows may cause damage to the environment. A key concern with sewage overflows is the effect on rivers, lakes, streams, or aquifer systems. In addition to potential spread of disease, sewage in the environment contributes excess nutrients, metals, and toxic pollutants that contaminate water quality, cause excess algae blooms, and kill fish and other organisms in aquatic habitats.

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 Attachment A. The SEP Offset Amount will be used to pay for the associated labor, equipment, and materials, according to TCEQ expenditure restrictions on the use of SEP funds. 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.

Subject to previously stated restrictions on the use of SEP monies and to the extent it can be documented, the Respondent may, upon advance written approval by TCEQ, receive credit for the hours its employees and equipment are used after hours or weekends in implementing the SEP. In order to receive approval for overtime, the Respondent must show reasonable justification for overtime consideration. The Respondent shall not receive credit for volunteer labor or equipment. The Respondent shall also not receive credit for gratuities and/or inducements for volunteers.

The Respondent understands that it may be required to spend more than the SEP Offset Amount in order to complete this SEP. The Respondent also understands that if it does not spend at least the SEP Offset Amount on the SEP; it must pay the shortfall to the TCEQ General Revenue Fund.

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 perform the SEP in accordance with the schedule shown in the Performance Schedule Deliverable table below, and shall have completed the SEP in its entirety **within one year** following the effective date of this Agreed Order.

Days from Effective Order Date	Percentage of Project to Be Completed	Performance Schedule Deliverable
30	Begin	Notice of Commencement describing actions taken to begin project.
90	1/4	Identification/List of at least 40 low-income residences and completion of a schedule for work to be done.
180	1/2	Provide TCEQ with **low-income verification** of residences receiving service. Replacement of at least ½ of eligible private sewer lines.
270	3/4	Replacement of at least ¾ of eligible private sewer lines.
365	Completion	Final completion of SEP with Final Report to be provided within 30 days of completion date, as described in Section 3.B., below.

3. Reporting

A. Progress Reports

The Respondent shall submit Progress Reports to the TCEQ SEP Coordinator on or before the schedule provided in the Progress Report Deliverable table below.

Days from Effective Order Date	Progress Report Deliverable
30	Notice of Commencement describing actions being taken to begin project.
90	Second Progress Report to provide report of actions taken to implement project.
180	Third Progress Report to provide report of actions taken to implement project.
270	Fourth Progress Report to provide report of actions taken to implement project.
365	Notice of SEP Completion, with Final Report to follow within 30 days of completion of project.

B. Final Report

Within 30 days after completion of the project, the Respondent shall submit a report to the TCEQ which includes:

1. Verification documentation for **Low-Income Status**, according to HUD guidelines;
2. Map showing each location of low-income residence receiving service clearly marked with physical address;
3. Total number of residences receiving private sewer line replacement;
4. An itemized list of all expenditures and costs incurred; include the following:
    a. Copies of all invoices;
    b. Copies of all paid receipts; and
    c. Copies of all cleared checks for the amount on invoice or receipt;

5. A summary total of the amounts of all costs incurred per residence;
6. A grand total for all costs;
7. Work will be conducted during regular work hours Monday through Friday. If the Respondent requests to receive credit for overtime, it must have been approved by SEP Coordinator prior to work performed. If overtime is granted, time records will include the following:
    a. Name(s) of employee(s);
    b. Total hours worked;
    c. Rate of pay; and
    d. Copies of time sheet records documenting actual hours worked
        i. certified by a supervisor; and
        ii. confirmed by Respondent's Payroll section;
8. Complete mileage log documentation, including name of destination, purpose of work; total miles driven, and beginning and ending odometer readings for all City vehicles used in project;
9. If work is contracted out, must have at least three (3) bids with proposals;
10. Gas receipts for rented equipment, if applicable;
11. Photographs **before, during and after** the project;
12. A statement of quantifiable environmental benefits; and
13. Any additional information the Respondent believes or that TCEQ requests to demonstrate compliance with this Attachment A

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
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

The Respondent shall provide any additional information required by TCEQ staff and allow access to all records related to the receipt and expenditure of SEP funds. The Respondent shall also allow a representative of the TCEQ access to the site of any work being financed in whole or in part by SEP funds. This provision survives the termination of this Agreed Order.

5. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

In the event of incomplete performance, the Respondent shall submit a check for any amount due with a notation that the payment is for a "SEP Refund", and the docket number of the case. The Respondent shall make the check out to "Texas Commission on Environmental Quality" and mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. 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. 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 identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other orders negotiated with the TCEQ or any other agency of the state or federal government.