EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-0659-MWD-E **TCEQ ID:** RN102178282 **CASE NO.:** 39571

RESPONDENT NAME: City of Missouri City

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: Steep Bank Flat Bank Creek, 6301 Oilfield Road, approximately 2,300 feet southeast of the intersection of Oilfield Road and Steep Bank Creek and approximately one mile southwest of the intersection of Oilfield Road and State Highway 6, Fort Bend County

TYPE OF OPERATION: Domestic wastewater system

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 January 31, 2011. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732

TCEQ Enforcement Coordinator: Mr. Harvey Wilson, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-0321; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495

Respondent: The Honorable Allen Owen, Mayor, City of Missouri City, 1522 Texas Parkway, Missouri City, Texas 77489

Mr. H. Frank Simpson, City Manager, City of Missouri City, 1522 Texas Parkway, Missouri City, Texas 77489

Respondent's Attorney: Mr. Jim Mathews, Mathews and Freeland, L.L.P., Attorney-at-Law, 327 Congress Avenue, Suite 300, Austin, Texas 78767

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 5, 2010 **Date of NOV/NOE Relating to this Case:** April 16, 2010 (NOE) **Background Facts:** This was a records review. **WATER** Failed to comply with permitted effluent limits for carbonaceous biochemical oxygen demand, E. coli, flow, and ammonia nitrogen [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013873001 Interim Effluent Limitation and Monitoring Requirements No. 1].	**Total Assessed:** $54,000 **Total Deferred:** $0 __Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $54,000 **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 re-seeded the Facility with bacteria on December 16, 2009 and returned to compliance with the permitted effluent limits in TPDES Permit No. WQ013873001 by April 1, 2010. **Ordering Provisions:** The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)

Additional ID No(s).: WQ0013873001

Attachment A
Docket Number: 2010-0659-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Missouri City
Penalty Amount:	Fifty-Four Thousand Dollars ($54,000)
SEP Offset Amount:	Fifty-Four Thousand Dollars ($54,000)
Type of SEP:	Pre-approved SEP
Third- Party Recipient:	Friends of the River San Bernard
Project:	*Friends of the River San Bernard Natural Area Acquisition and Conservation Program*
Location of SEP:	Brazos-Colorado Coastal River Basin and Austin, Brazoria, Colorado, Fort Bend, Matagorda and Wharton Counties

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

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to the **Friends of the River San Bernard** for the *Friends of the River San Bernard Natural Area Acquisition and Conservation Program,* as set forth in the SEP Agreement referenced above between the Third-Party Recipient and the TCEQ. The SEP Offset Amount will be used to preserve a contiguous wetland corridor along the San Bernard River in lower Fort Bend County. Ducks Unlimited has protected an adjacent 114 acre tract with two conservation easements, but the contiguity of this wetland corridor greatly depends on the acquisition and preservation of the remaining acreage. This SEP will focus on three (3) tracts of land comprising approximately 645 acres in the wetland corridor on the north side of the San Bernard River and west of Armstrong Road. Third-Party Recipient shall use SEP Funds to acquire conservation easements on these tracts to provide permanent protection and stewardship of these lands and waters. All tracts acquired in whole or in part with SEP Funds shall be preserved in perpetuity through conservation easements that comply with Subchapter A, Chapter 183, Texas Natural Resources Code. The Holder of the San Bernard Conservation Easements shall be WETLANDS AMERICA TRUST, INC. (affiliated with Ducks Unlimited) which Third-Party Recipient certifies is an entity that meets the definition of "holder" under Section 183.001(2), Texas Natural Resources Code.

The SEP will be done in accordance with all federal, state and local environmental laws and regulations. The Respondent shall not profit from this SEP in any manner. The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

Permanently protecting this land through the use of conservation easements will prevent pollution, enhance the quality of the environment, and may reduce the amount of pollutants reaching the environment. The land is located within the Central Flyway on the Upper Texas Coast; where approximately 10 million ducks and geese winter each year. Conservation of habitat for migratory birds and other wetland dependent wildlife is critical for maintaining the rich diversity of bird life in this area. Wetlands also benefit people by recharging groundwater supplies, reducing coastal storm surges, retaining flood waters during storm events and improving water quality. By protecting this land and preventing development, water quality, air quality and wildlife habitat will be protected.

C. Minimum Expenditure

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

2. Performance Schedule

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

Ms. Nancy Kantor, President
Friends of the River San Bernard
P.O. Box 93
Brazoria, Texas 77422

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to the addressee listed below:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

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

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

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

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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

Penalty Calculation Worksheet (PCW)

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

TCEQ

DATES					
Assigned	19-Apr-2010				
PCW	28-Apr-2010	Screening	27-Apr-2010	EPA Due	5-Jun-2010

RESPONDENT/FACILITY INFORMATION

Respondent	City of Missouri City		
Reg. Ent. Ref. No.	RN102178282		
Facility/Site Region	12-Houston	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	39571	No. of Violations	3
Docket No.	2010-0659-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Harvey Wilson
		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*	$40,000
ADJUSTMENTS (+/-) TO SUBTOTAL 1		

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

Compliance History	65.0% Enhancement	*Subtotals 2, 3, & 7*	$26,000

Notes: An enhancement is recommended for 11 months of self reported effluent violations and two NOVs for the same/similar violation.

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*	$10,000
Economic Benefit	0.0% Enhancement* *Subtotal 6*	$0

Total EB Amounts $2,261
Approx. Cost of Compliance $35,100

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7	*Final Subtotal*	$56,000
OTHER FACTORS AS JUSTICE MAY REQUIRE -3.6%	*Adjustment*	-$2,000

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended reduction in the penalty to prevent double enhancement of the penalty amount for same violations that were self-reported.

	Final Penalty Amount	$54,000
STATUTORY LIMIT ADJUSTMENT	*Final Assessed Penalty*	$54,000
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	$54,000

Screening Date 27-Apr-2010 **Docket No.** 2010-0659-MWD-E **PCW**

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

Case ID No. 39571 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102178282

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

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*)	13	65%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of counts*)	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which notices were submitted*)	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) 65%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

An enhancement is recommended for 11 months of self reported effluent violations and two NOVs for the same/similar violation.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 65%

Screening Date 27-Apr-2010 **Docket No.** 2010-0659-MWD-E **PCW**

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

Case ID No. 39571 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102178282

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

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. WQ0013873001 Interim Effluent Limitation and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits as depicted in the attached table.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. E. coli was 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 $7,500

$2,500

Violation Events

Number of Violation Events 2 | 61 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $5,000

Two quarterly events are recommended for the quarters that contain the months May and November 2009.

Good Faith Efforts to Comply

25.0% Reduction $1,250

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

Notes: The Respondent returned to compliance by April 1, 2010.

Violation Subtotal $3,750

Economic Benefit (EB) for this violation

Estimated EB Amount $2,255

Statutory Limit Test

Violation Final Penalty Total $6,750

This violation Final Assessed Penalty (adjusted for limits) $6,750

Economic Benefit Worksheet

Respondent City of Missouri City
Case ID No. 39571
Reg. Ent. Reference No. RN102178282
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)	$35,000	30-Apr-2009	1-Apr-2010	0.92	$107	$2,148	$2,255
Engineering/construction				0.00	$0	$0	$0
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0

Notes for DELAYED costs: The estimated cost of re-seeding the Facility with bacteria and hauling the sludge away. Date Required was the date the violations were first documented. Final Date is the date of compliance.

Avoided Costs							
ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)							
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0

Notes for AVOIDED costs:

Approx. Cost of Compliance $35,000

TOTAL $2,255

Screening Date 27-Apr-2010 **Docket No.** 2010-0659-MWD-E **PCW**

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

Case ID No. 39571 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102178282

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Violation Number 2

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0013873001 Interim Effluent Limitation and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits as depicted in the attached table.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual		x	
Potential			

Percent 50%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: A simplified model was used to evaluate ammonia nitrogen and carbonaceous biochemcial oxygen demand to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. Flow and E. coli were also considered. As a result of these discharges, human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors.

Adjustment $5,000

$5,000

Violation Events

Number of Violation Events 5 | 153 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $25,000

Five monthly events are recommended for the months of April, July, August, September, and December 2009.

Good Faith Efforts to Comply

25.0% Reduction $6,250

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

Notes: The Respondent returned to compliance by April 1, 2010.

Violation Subtotal $18,750

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $33,750

This violation Final Assessed Penalty (adjusted for limits) $33,750

Economic Benefit Worksheet

Respondent City of Missouri City
Case ID No. 39571
Reg. Ent. Reference No. RN102178282
Media Water Quality
Violation No. 2

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				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	Included in the delayed costs for Violation No. 1.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance: $0

TOTAL: $0

Screening Date 27-Apr-2010 **Docket No.** 2010-0659-MWD-E **PCW**

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

Case ID No. 39571 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN102178282

Media [Statute] Water Quality

Enf. Coordinator Harvey Wilson

Violation Number 3

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and TPDES Permit No. WQ0013873001 Interim Effluent Limitation and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits as depicted 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: Human health and the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment $0

$10,000

Violation Events

Number of Violation Events 1 — 31 Number of violation days

mark only one with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty $10,000

One monthly event is recommended for the month of October 2009.

Good Faith Efforts to Comply

25.0% Reduction — $2,500

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

Notes: The Respondent returned to compliance by April 1, 2010.

Violation Subtotal $7,500

Economic Benefit (EB) for this violation

Estimated EB Amount $0

Statutory Limit Test

Violation Final Penalty Total $13,500

This violation Final Assessed Penalty (adjusted for limits) $13,500

Economic Benefit Worksheet

Respondent City of Missouri City
Case ID No. 39571
Reg. Ent. Reference No. RN102178282
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description (No commas or $)	Item Cost	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				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0
Notes for DELAYED costs	Included in the delayed costs for Violation No. 1.						
Avoided Costs	ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)						
Disposal				0.00	$0	$0	$0
Personnel				0.00	$0	$0	$0
Inspection/Reporting/Sampling				0.00	$0	$0	$0
Supplies/equipment				0.00	$0	$0	$0
Financial Assurance [2]				0.00	$0	$0	$0
ONE-TIME avoided costs [3]				0.00	$0	$0	$0
Other (as needed)				0.00	$0	$0	$0
Notes for AVOIDED costs							

Approx. Cost of Compliance: $0

TOTAL: $0

City of Missouri City
Docket No. 2010-0659-MWD-E
TPDES Permit No. WQ0013873001
Violation Table

2009	CBOD Daily Avg Conc 10 mg/L	CBOD Daily Max, Conc 25 mg/L	CBOD Daily Avg loading 125 lbs/day	E. coli Daily Max 394 CFU/ 100 ml	Flow 2 hour peak 4,167 gpm	Ammonia Nitrogen, Daily Avg 3 mg/L	Ammonia Nitrogen Daily Max 10 mg/L	Ammonia Nitrogen Daily Avg loading 38 lbs/day
December	19.82	55.3	211.72	C	C	13.76	37	148.82
November	C	C	C	547.4	C	6.14	30	63.15
October	C	C	C	2,420	C	C	13.2	C
September	C	C	C	791	C	C	C	C
August	C	C	C	921	C	C	C	C
July	C	C	C	1,203	C	C	C	C
May	C	C	C	410	C	C	C	C
April	C	C	C	1,218	4,513	C	C	C

CBOD = Carbonaceous Biochemical Oxygen Demand mg/L milligrams per liter lbs/day = pounds per day
Max = maximum CFU/100 ml = colony forming units per 100 milliliters
gpm = gallons per minute Conc = concentration C = Compliant Avg = average

Compliance History Report

Customer/Respondent/Owner-Operator:	CN601159528	City of Missouri City	Classification: AVERAGE	Rating: 2.69
Regulated Entity:	RN102178282	STEEP BANK FLAT BANK CREEK	Classification: AVERAGE	Site Rating: 0.10

ID Number(s):	WASTEWATER	PERMIT	WQ0013873001
	WASTEWATER	PERMIT	TPDES0114855
	WASTEWATER	PERMIT	TX0114855

Location: 6301 Oilfield Road, approximately 2,300 feet southeast of the intersection of Oilfield Road and Steep Bank Creek and approximately one mile southwest of the intersection of Oilfield Road and State Highway 6 in Fort Bend County, Texas

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: April 23, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: April 23, 2005 to April 23, 2010

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

Name: Harvey Wilson Phone: 239 - 0321

Site Compliance History Components

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

Components (Multimedia) for the Site :

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

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	05/20/2005	(426937)
2	06/20/2005	(426938)
3	08/19/2005	(447115)
4	08/30/2005	(447114)
5	09/20/2005	(447116)
6	10/17/2005	(491319)
7	10/17/2005	(491322)
8	11/22/2005	(491320)
9	12/27/2005	(491321)
10	02/21/2006	(491317)
11	03/23/2006	(491318)

12	03/24/2006	(453194)
13	04/24/2006	(505729)
14	05/16/2006	(505730)
15	06/20/2006	(527988)
16	06/20/2006	(527989)
17	08/11/2006	(267485)
18	08/21/2006	(527990)
19	08/31/2006	(527991)
20	09/25/2006	(630025)
21	10/23/2006	(630027)
22	11/27/2006	(630029)
23	12/15/2006	(630031)
24	01/22/2007	(630033)
25	02/26/2007	(630019)
26	03/22/2007	(630020)
27	04/19/2007	(630021)
28	04/19/2007	(630034)
29	05/21/2007	(630022)
30	06/25/2007	(630023)
31	07/23/2007	(630024)
32	09/24/2007	(630026)
33	10/23/2007	(630028)
34	11/26/2007	(630030)
35	12/27/2007	(630032)
36	02/25/2008	(676890)
37	03/24/2008	(695505)
38	04/21/2008	(695506)
39	05/14/2008	(639943)
40	05/20/2008	(695508)
41	05/22/2008	(695507)
42	05/22/2008	(695509)
43	06/23/2008	(717044)
44	08/22/2008	(717045)
45	10/02/2008	(732420)
46	10/20/2008	(732421)
47	11/21/2008	(732422)
48	12/10/2008	(616276)
49	12/22/2008	(732423)
50	02/24/2009	(755738)
51	03/23/2009	(772753)
52	04/21/2009	(772754)
53	04/21/2009	(772755)
54	04/09/2010	(791558)
55	04/16/2010	(798259)

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

Date: 09/30/2008 (732421) CN601159528

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: 12/05/2008 (616276) CN601159528

Self Report? NO Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)(1)

Description: Failure to prevent the unauthorized discharge of untreated wastewater.

Date: 12/31/2008 (695509) CN601159528

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: 04/30/2009 CN601595238

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)(

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

Date: 05/31/2009 CN601595238

Sel Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

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

Date: 06/30/2009 CN601595238

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

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

Date: 07/31/2009 CN601595238

Self Report: YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

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

Date: 08/31/2009 CN601595238

Self Report? YES Classification: Moderate

Citation: 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 CN601595238

Self Report? YES Classification: Moderate

Citation: 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 CN601595238

Self Report? YES Classification: Moderate

Citation: 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 CN601595238

Self Report? YES Classification: Moderate

Citation: 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 CN601595238

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

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

Date: 04/12/2010

Self Report? NO (791558) CN601595238

Citation: 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 compilance 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	**§**	**BEFORE THE**
ENFORCEMENT ACTION	**§**	
CONCERNING	**§**	**TEXAS COMMISSION ON**
CITY OF MISSOURI CITY	**§**	
RN102178282	**§**	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2010-0659-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 Missouri City ("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 Mr. Jim Mathews of the law firm of Mathews and Freeland, L.L.P., presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

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

I. FINDINGS OF FACT

1. The Respondent owns and operates a domestic wastewater treatment system located at 6301 Oilfield Road, approximately 2,300 feet southeast of the intersection of Oilfield Road and Steep Bank Creek and approximately one mile southwest of the intersection of Oilfield Road and State Highway 6 in Fort Bend County, Texas (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to water in the state under TEX. WATER CODE ch. 26.

3. During a record review on April 5, 2010, TCEQ staff documented that the Respondent exceeded the permitted effluent limits as shown in the table below:

Violation Table

2009	CBOD Daily Avg. Conc 10 mg/L	CBOD Daily Max. Conc 25 mg/L	CBOD Daily Avg. Loading 125 lbs/day	E. coli Daily Max. 394 CFU/ 100 ml	Flow 2 hour peak 4,167 gpm	Ammonia Nitrogen, Daily Avg. Conc. 3 mg/L	Ammonia Nitrogen Daily Max. Conc. 10 mg/L	Ammonia Nitrogen Daily Avg. Loading 38 lbs/day
December	19.82	55.3	211.72	C	C	13.76	37	148.82
November	C	C	C	547.4	C	6.14	30	63.15
October	C	C	C	2,420	C	C	13.2	C
September	C	C	C	791	C	C	C	C
August	C	C	C	921	C	C	C	C
July	C	C	C	1,203	C	C	C	C
May	C	C	C	410	C	C	C	C
April	C	C	C	1,218	4,513	C	C	C

CBOD = Carbonaceous Biochemical Oxygen Demand mg/L = milligrams per liter lbs/day = pounds per day Max. = maximum CFU/100 ml = colony forming units per 100 milliliters gpm = gallons per minute Conc. = concentration C = Compliant Avg. = average

4. The Respondent received notice of the violations on April 19, 2010.

5. The Executive Director recognizes that the Respondent re-seeded the Facility with bacteria on December 16, 2009 and returned to compliance with the permitted effluent limits in Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ013873001 by April 1, 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 TPDES Permit No. WQ0013873001 Interim Effluent Limitation and Monitoring Requirements No. 1.

3. 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.

4. An administrative penalty in the amount of Fifty-Four Thousand Dollars ($54,000) 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. Pursuant to TEX. WATER CODE § 7.067, Fifty-Four Thousand Dollars ($54,000) of the administrative penalty shall be conditionally offset by the Respondent's timely and satisfactory contribution to a Supplemental Environmental Project ("SEP") as defined in the SEP Agreement ("Attachment A" - incorporated herein by reference). The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed by this Agreed Order shall be discharged upon full compliance with all the terms and conditions of this Agreed Order, which includes timely and satisfactory compliance with all provisions of the SEP Agreement, as determined by the Executive Director. If the Respondent fails to timely and satisfactorily comply with any requirement contained in this Agreed Order, including the SEP Agreement, the Executive Director may require Respondent to pay all or part of the conditionally offset administrative penalty.

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 Fifty-Four Thousand Dollars ($54,000) as set forth in Section II, Paragraph 4 above, for violations of TCEQ rules and state statutes. 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.

2. The Respondent shall contribute Fifty-Four Thousand Dollars ($54,000.00) to a SEP, as set forth in Section II, Paragraph 4 above. Fifty-Four Thousand Dollars ($54,000) of the administrative penalty assessed by the Agreed Order shall be conditionally offset based on the condition that the Respondent contribute to a SEP pursuant to the terms and conditions contained in the SEP Agreement, as 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 full, final, and satisfactory completion of all provisions of the SEP Agreement, as determined by the Executive Director.

3. The provisions of this Agreed Order shall apply to and be binding on 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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

_____ 1/5/2011
For the Executive Director Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Missouri City. I am authorized to agree to the attached Agreed Order on behalf of the City of Missouri City, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, by agreeing to conditionally offset the assessed administrative penalty, is materially relying on such representation.

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

_____ December 20, 2010
Signature Date

H FRANK SIMPSON CITY MANAGER
Name (Printed or typed) Title
Authorized Representative of
the City of Missouri City

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: 2010-0659-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Missouri City
Penalty Amount:	Fifty-Four Thousand Dollars ($54,000)
SEP Offset Amount:	Fifty-Four Thousand Dollars ($54,000)
Type of SEP:	Pre-approved SEP
Third- Party Recipient:	Friends of the River San Bernard
Project:	*Friends of the River San Bernard Natural Area Acquisition and Conservation Program*
Location of SEP:	Brazos-Colorado Coastal River Basin and Austin, Brazoria, Colorado, Fort Bend, Matagorda and Wharton Counties

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

1. Project Description

A. Project

The Respondent shall contribute the SEP Offset Amount to the Third-Party Recipient named above. The contribution will be to the **Friends of the River San Bernard** for the *Friends of the River San Bernard Natural Area Acquisition and Conservation Program,* as set forth in the SEP Agreement referenced above between the Third-Party Recipient and the TCEQ. The SEP Offset Amount will be used to preserve a contiguous wetland corridor along the San Bernard River in lower Fort Bend County. Ducks Unlimited has protected an adjacent 114 acre tract with two conservation easements, but the contiguity of this wetland corridor greatly depends on the acquisition and preservation of the remaining acreage. This SEP will focus on three (3) tracts of land comprising approximately 645 acres in the wetland corridor on the north side of the San Bernard River and west of Armstrong Road. Third-Party Recipient shall use SEP Funds to acquire conservation easements on these tracts to provide permanent protection and stewardship of these lands and waters. All tracts acquired in whole or in part with SEP Funds shall be preserved in perpetuity through conservation easements that comply with Subchapter A, Chapter 183, Texas Natural Resources Code. The Holder of the San Bernard Conservation Easements shall be WETLANDS AMERICA TRUST, INC. (affiliated with Ducks Unlimited) which Third-Party Recipient certifies is an entity that meets the definition of "holder" under Section 183.001(2), Texas Natural Resources Code.

The SEP will be done in accordance with all federal, state and local environmental laws and regulations. The Respondent shall not profit from this SEP in any manner. The Respondent certifies that it has no prior commitment to make this contribution and that it is being done solely in an effort to settle this enforcement action.

B. Environmental Benefit

Permanently protecting this land through the use of conservation easements will prevent pollution, enhance the quality of the environment, and may reduce the amount of pollutants reaching the environment. The land is located within the Central Flyway on the Upper Texas Coast; where approximately 10 million ducks and geese winter each year. Conservation of habitat for migratory birds and other wetland dependent wildlife is critical for maintaining the rich diversity of bird life in this area. Wetlands also benefit people by recharging groundwater supplies, reducing coastal storm surges, retaining flood waters during storm events and improving water quality. By protecting this land and preventing development, water quality, air quality and wildlife habitat will be protected.

C. Minimum Expenditure

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

2. Performance Schedule

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

Ms. Nancy Kantor, President
Friends of the River San Bernard
P.O. Box 93
Brazoria, Texas 77422

3. Records and Reporting

Concurrent with the payment of the SEP Offset Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Offset Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to the addressee listed below:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

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

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The Respondent shall make the payment for the amount due to "Texas Commission on Environmental Quality" and mail it to:

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

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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