

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-1334-AIR-E **TCEQ ID:** RN100942259 **CASE NO.:** 40212

RESPONDENT NAME: City of Fort Worth

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: City of Fort Worth Village Creek WWTP, 4500 Wilma Lane, Arlington, Tarrant County</p> <p>TYPE OF OPERATION: Wastewater treatment plant</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on January 24, 2011. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Mr. Phillip Hampsten, SEP Coordinator, Enforcement Division, MC 219, (512) 239-6732 TCEQ Enforcement Coordinator: Ms. Heather Podlipny, Enforcement Division, Enforcement Team 4, MC 149, (512) 239-2603; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Fernando Costa, Acting for Assistant City Manager, City of Fort Worth, 4500 Wilma Lane, Arlington, Texas 76012 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: April 8, 2010</p> <p>Date of NOV/NOE Relating to this Case: August 4, 2010 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>AIR</p> <p>1) Failed to maintain a daily emissions log for three flares. Specifically, the Respondent did not make a daily notation in the flare operation log for flares: EPN FLR-1, EPN FLR-2, and EPN FLR-3 [30 TEX. ADMIN. CODE §§ 111.111(a)(4)(A)(ii) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit ("FOP") No. O1704, Special Terms and Conditions No. 1(A)].</p> <p>2) Failed to maintain records demonstrating compliance with periodic monitoring requirements for the cold solvent cleaners. Specifically, the Respondent did not maintain records which document that monthly checks for compliance were being conducted on the three cold solvent cleaners: EPN CSOL 1, EPN CSOL 2, and EPN CSOL 3 [30 TEX. ADMIN. CODE § 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O1704, Special Terms and Conditions No. 8].</p> <p>3) Failed to report in writing all instances of deviations of FOP No. O1704. Specifically, the Respondent failed to report that the daily visible emissions log for the three process flares and the monthly compliance checks for the cold solvent cleaners were not being maintained and these deviations were not included in the</p>	<p>Total Assessed: \$15,900</p> <p>Total Deferred: \$3,180 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$12,720</p> <p>Total Paid to General Revenue: \$0</p> <p>Compliance History Classifications: Person/CN - Average Site/RN - Average</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. On April 10, 2010, daily checks for visible emissions from the three process flares, Emission Point Number ("EPN") FLR-1, EPN FLR-2 and EPN FLR-3, were conducted, recorded and maintained;</p> <p>b. On April 15, 2010, monthly compliance checks of the cold solvent cleaners, EPN CSOL 1, EPN CSOL 2, and EPN CSOL 3, were conducted, recorded and maintained; and</p> <p>c. On May 20, 2010, the Title V semi-annual deviation report was submitted for the November 1, 2009 to April 30, 2010 reporting period. Additionally, an internal checklist was re-designed to prompt for all major elements of permit documentation requirements to facilitate accurate completion of semi-annual deviation reports.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p>

semi-annual deviation reports for the November 1, 2008 to April 30, 2009 and May 1, 2009 to October 30, 2009 reporting periods [30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O1704, General Terms and Conditions].		
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Additional ID No(s): Air TA0512K

Attachment A
Docket Number: 2010-1334-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Fort Worth

Payable Penalty Amount: Twelve Thousand Seven Hundred Twenty Dollars
(\$12,720)

SEP Amount: Twelve Thousand Seven Hundred Twenty Dollars
(\$12,720)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and
Development Areas, Inc. (“RC&D”)- Clean School
Buses

Location of SEP: Texas Air Quality Control Region 215 – Dallas-Fort
Worth

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

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to aid local school districts, area transit agencies, and local governments in need of funding assistance to pay for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fuelled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. The funds will be disbursed on a needs-rated basis, using non-attainment area status, condition of buses, and economic status of the recipient as possible rating factors if competition for the funds exists. To maximize funds, retrofitting will take priority over replacement of buses. Older buses deemed not suitable for retrofitting will be permanently retired and sold only for scrap.

Acceptable retrofit technologies include particulate matter traps, diesel particulate matter filters, nitrogen oxides (NO_x) reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by the United States Environmental Protection Agency (“EPA”) or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate matter and hydrocarbon emissions from buses, to meet the new, more stringent emissions standards introduced by the EPA which will be phased in between 2007 and 2010.

C. Minimum Expenditure

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

2. Performance Schedule

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

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

3. Records and Reporting

Concurrent with the payment of the SEP amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

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

4. Failure to Fully Perform

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

City of Fort Worth
Agreed Order - Attachment A

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	9-Aug-2010	Screening	12-Aug-2010	EPA Due	
	PCW	16-Aug-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Fort Worth
Reg. Ent. Ref. No.	RN100942259
Facility/Site Region	4-Dallas/Fort Worth
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	40212	No. of Violations	3
Docket No.	2010-1334-AIR-E	Order Type	1660
Media Program(s)	Air	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Heather Podlipny
		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$10,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History	84.0% Enhancement	Subtotals 2, 3, & 7	\$8,400
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Notes: Enhancement for seven dissimilar NOVs, one order with denial, and one order without denial.

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
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Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$2,500
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$25
Approx. Cost of Compliance	\$1,500

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$15,900
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount	\$15,900
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$15,900
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DEFERRAL	20.0% Reduction	Adjustment	-\$3,180
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY	\$12,720
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Screening Date 12-Aug-2010

Docket No. 2010-1334-AIR-E

PCW

Respondent City of Fort Worth

Policy Revision 2 (September 2002)

Case ID No. 40212

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100942259

Media [Statute] Air

Enf. Coordinator Heather Podlipny

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	7	14%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%

Please Enter Yes or No

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

Adjustment Percentage (Subtotal 2) 59%

>> Repeat Violator (Subtotal 3)

Yes

Adjustment Percentage (Subtotal 3) 25%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for seven dissimilar NOVs, one order with denial, and one order without denial.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 84%

Screening Date 12-Aug-2010
Respondent City of Fort Worth
Case ID No. 40212
Reg. Ent. Reference No. RN100942259
Media [Statute] Air
Enf. Coordinator Heather Podlipny

Docket No. 2010-1334-AIR-E

PCW

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

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code §§ 111.111(a)(4)(A)(ii) and 122.143(4), Tex. Health & Safety Code § 382.085(b), and Federal Operating Permit ("FOP") No. O1704, Special Terms and Conditions No. 1(A)

Violation Description Failed to maintain a daily emissions log for three flares, as documented during an investigation conducted on April 8, 2010. Specifically, the Respondent did not make a daily notation in the flare operation log for flares: Emission Point Number ("EPN") FLR-1, EPN FLR-2, and EPN FLR-3.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual				0%
	Potential				

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
	x			25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 365 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$625

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

Notes

The Respondent returned to compliance on April 10, 2010 and the NOE was dated August 4, 2010.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$3,975

This violation Final Assessed Penalty (adjusted for limits) \$3,975

Economic Benefit Worksheet

Respondent City of Fort Worth
Case ID No. 40212
Req. Ent. Reference No. RN100942259
Media Air
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	8-Apr-2010	10-Apr-2010	0.01	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated cost to develop and implement a record keeping system to demonstrate compliance for the daily visible emissions log required by FOP No. 01704. The Date Required is the investigation date and the Final Date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance	\$500	TOTAL	\$0
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Screening Date 12-Aug-2010

Docket No. 2010-1334-AIR-E

PCW

Respondent City of Fort Worth

Policy Revision 2 (September 2002)

Case ID No. 40212

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN100942259

Media [Statute] Air

Enf. Coordinator Heather Podlipny

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 122.143(4), Tex. Health & Safety Code § 382.085(b), and FOP No. O1704, Special Terms and Conditions No. 8

Violation Description

Failed to maintain records demonstrating compliance with periodic monitoring requirements for the cold solvent cleaners, as documented during an investigation conducted on April 8, 2010. Specifically, the Respondent did not maintain records which document that monthly checks for compliance were being conducted on the three cold solvent cleaners: EPN CSOL 1, EPN CSOL 2, and EPN CSOL 3.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
	x			25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 1 Number of violation days 365

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

Violation Base Penalty \$2,500

One single event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$625

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

Notes The Respondent returned to compliance on April 15, 2010 and the NOE was dated August 4, 2010.

Violation Subtotal \$1,875

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$3,975

This violation Final Assessed Penalty (adjusted for limits) \$3,975

Economic Benefit Worksheet

Respondent City of Fort Worth
Case ID No. 40212
Req. Ent. Reference No. RN100942259
Media Air
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

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$500	8-Apr-2010	15-Apr-2010	0.02	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to develop and implement a record keeping system to demonstrate compliance for the monthly cold solvent cleaner checks required by FOP No. O1704. The Date Required is the investigation date and the Final Date is the date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$500

TOTAL

\$0

Screening Date 12-Aug-2010
Respondent City of Fort Worth
Case ID No. 40212
Reg. Ent. Reference No. RN100942259
Media [Statute] Air
Enf. Coordinator Heather Podlipny

Docket No. 2010-1334-AIR-E

PCW

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

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 122.143(4) and 122.145(2), Tex. Health & Safety Code § 382.085(b), and FOP No. O1704, General Terms and Conditions

Violation Description

Failed to report in writing all instances of deviations of FOP No. O1704, as documented during an investigation conducted on April 8, 2010. Specifically, the Respondent failed to report that the daily visible emissions log for the three process flares and the monthly compliance checks for the cold solvent cleaners were not being maintained and these deviations were not included in the semi-annual deviation reports for the November 1, 2008 to April 30, 2009 and May 1, 2009 to October 30, 2009 reporting periods.

Base Penalty \$10,000

>> **Environmental, Property and Human Health Matrix**

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> **Programmatic Matrix**

Falsification	Major	Moderate	Minor	Percent
	x			25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2 365 Number of violation days

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

Violation Base Penalty \$5,000

Two single events are recommended, one for each semi-annual report.

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

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

Notes: The Respondent returned to compliance on May 20, 2010 and the NOE was dated August 4, 2010.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$24

Violation Final Penalty Total \$7,950

This violation Final Assessed Penalty (adjusted for limits) \$7,950

Economic Benefit Worksheet

Respondent City of Fort Worth
Case ID No. 40212
Req. Ent. Reference No. RN100942259
Media Air
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	\$500	30-May-2009	20-May-2010	0.97	\$24	n/a	\$24
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs
 Estimated cost to develop and implement a record keeping system to demonstrate compliance with the semi-annual deviation reporting requirement of FOP No. O1704. The Date Required is the date the first deviation report was due and the 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	\$500	TOTAL	\$24
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Compliance History Report

Customer/Respondent/Owner-Operator: CN600128862 City of Fort Worth Classification: AVERAGE Rating: 3.19
Regulated Entity: RN100942259 CITY OF FORT WORTH VILLAGE Classification: AVERAGE Site Rating: 8.45
CREEK WWTP

ID Number(s):	AIR OPERATING PERMITS	ACCOUNT NUMBER	TA0512K
	AIR OPERATING PERMITS	PERMIT	1704
	AIR NEW SOURCE PERMITS	PERMIT	7553
	AIR NEW SOURCE PERMITS	REGISTRATION	46811
	AIR NEW SOURCE PERMITS	REGISTRATION	46812
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	TA0512K
	AIR NEW SOURCE PERMITS	AFS NUM	4843900321
	AIR NEW SOURCE PERMITS	REGISTRATION	71648
	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	7527
	WASTEWATER	PERMIT	WQ0010494013
	WASTEWATER	PERMIT	WQ0010494013
	WASTEWATER	EPA ID	TX0047295
	PRETREATMENT	PERMIT	WQ0010494013
	PRETREATMENT	EPA ID	TX0047295000
	WASTEWATER LICENSING	LICENSE	WQ0010494013
	STORMWATER	PERMIT	TXR050332
	AIR EMISSIONS INVENTORY	ACCOUNT NUMBER	TA0512K

Location: 4500 WILMA LN, ARLINGTON, TX, 76012

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: August 09, 2010

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 09, 2005 to August 09, 2010

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

Name: Heather Podlipny Phone: 239 - 2603

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: YES

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: 08/31/2007

ADMINORDER 2007-0387-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 122, SubChapter B 122.146(2)

Rqmt Prov: General Terms and Conditions PERMIT

Description: Failed to timely submit an annual compliance certification no later than 30 days after the end of the certification period

Effective Date: 07/21/2008

ADMINORDER 2008-0149-MWD-E

Classification: Major

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

30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: 2g PERMIT

Description: Failure to prevent an unauthorized discharge that resulted in a fish kill.

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	08/29/2005	(395374)
2	08/30/2005	(442961)
3	09/16/2005	(442962)
4	10/17/2005	(472507)
5	10/17/2005	(472508)
6	11/15/2005	(472509)
7	12/16/2005	(472510)
8	01/19/2006	(472511)
9	01/31/2006	(451584)
10	02/17/2006	(472505)
11	03/21/2006	(472506)
12	04/18/2006	(500865)
13	05/18/2006	(500866)
14	06/16/2006	(500867)
15	06/21/2006	(466347)
16	06/23/2006	(483583)
17	07/17/2006	(523009)
18	08/31/2006	(523010)
19	09/21/2006	(523011)
20	10/20/2006	(547834)
21	10/31/2006	(513817)
22	11/16/2006	(547835)
23	11/30/2006	(497471)
24	12/19/2006	(547836)
25	01/05/2007	(486679)
26	01/22/2007	(547837)
27	01/26/2007	(537657)
28	02/14/2007	(540499)
29	02/15/2007	(547833)
30	02/28/2007	(540534)
31	03/08/2007	(543267)
32	03/15/2007	(580655)
33	03/23/2007	(554850)
34	04/16/2007	(580656)

35	05/17/2007	(580657)
36	06/15/2007	(580658)
37	06/21/2007	(564341)
38	07/17/2007	(580659)
39	07/24/2007	(568019)
40	08/14/2007	(603139)
41	09/13/2007	(603140)
42	10/22/2007	(603141)
43	11/16/2007	(621599)
44	12/05/2007	(610451)
45	12/17/2007	(621600)
46	12/20/2007	(611731)
47	01/15/2008	(621601)
48	02/13/2008	(673547)
49	02/26/2008	(617162)
50	03/17/2008	(673548)
51	04/04/2008	(641283)
52	04/11/2008	(673549)
53	05/14/2008	(691816)
54	05/30/2008	(654068)
55	06/12/2008	(691817)
56	07/16/2008	(691818)
57	08/14/2008	(712785)
58	08/18/2008	(699954)
59	09/15/2008	(712786)
60	10/10/2008	(712787)
61	10/29/2008	(706015)
62	11/13/2008	(728980)
63	11/21/2008	(708815)
64	12/15/2008	(728981)
65	01/15/2009	(728982)
66	01/22/2009	(721577)
67	02/13/2009	(752130)
68	03/11/2009	(752131)
69	04/13/2009	(752132)
70	05/13/2009	(769864)
71	06/10/2009	(769865)
72	08/11/2009	(809104)
73	08/14/2009	(809103)
74	10/09/2009	(778773)
75	10/15/2009	(809106)
76	11/12/2009	(809107)
77	12/09/2009	(776936)
78	12/14/2009	(782107)
79	01/20/2010	(809109)
80	01/28/2010	(789475)
81	02/05/2010	(790919)
82	02/17/2010	(809102)
83	02/17/2010	(809105)
84	02/17/2010	(809108)
85	03/12/2010	(832481)
86	04/20/2010	(832482)
87	05/12/2010	(832483)
88	07/13/2010	(802580)
89	08/02/2010	(798172)

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

Date: 06/30/2006 (523009) CN600128862
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 01/05/2007 (486679) CN600128862
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 315, SubChapter A 315.1
40 CFR Chapter 403, SubChapter N, PT 403 403.8(f)(5)
Description: Failure to escalate enforcement against a noncompliant industrial user to obtain compliance. Failure to randomly sample and analyze effluent from IUs to identify industries in significant noncompliance.

Date: 01/02/2008 (611731)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THSC Chapter 382 382.085(b)
7553, Special Condition 10A PERMIT
Description: Failure to conduct stack sampling for Unit GT-2 during the fourth quarter of 2006, as required under New Source Review Permit No. 7553, Condition 10A.

Date: 04/01/2008 (654068) CN600128862
Self Report? NO Classification: Major
Citation: TWC Chapter 26 26.121
Description: Failure to prevent an unauthorized discharge of wastewater that resulted in a fish kill.

Date: 07/31/2008 (712785) CN600128862
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: 10/28/2008 (706015) CN600128862
Self Report? NO Classification: Moderate
Citation: TWC Chapter 26 26.121
Description: Failure to prevent the unauthorized discharge of wastewater from the collection system.

Date: 12/15/2009 (782107) CN600128862
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter C 319.302
Description: Failure to provide the required public notification of a spill or accidental discharge of untreated domestic wastewater.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF FORT WORTH
RN100942259**

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

AGREED ORDER DOCKET NO. 2010-1334-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Fort Worth ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant at 4500 Wilma Lane in Arlington, Tarrant County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 9, 2010.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Fifteen Thousand Nine Hundred Dollars (\$15,900) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Twelve Thousand Seven Hundred Twenty Dollars (\$12,720) of

the administrative penalty shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP") and Three Thousand One Hundred Eighty Dollars (\$3,180) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:
 - a. On April 10, 2010, daily checks for visible emissions from the three process flares, Emission Point Number ("EPN") FLR-1, EPN FLR-2 and EPN FLR-3, were conducted, recorded and maintained;
 - b. On April 15, 2010, monthly compliance checks of the cold solvent cleaners, EPN CSOL 1, EPN CSOL 2, and EPN CSOL 3, were conducted, recorded and maintained; and
 - c. On May 20, 2010, the Title V semi-annual deviation report was submitted for the November 1, 2009 to April 30, 2010 reporting period. Additionally, an internal checklist was re-designed to prompt for all major elements of permit documentation requirements to facilitate accurate completion of semi-annual deviation reports.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. 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.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

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

1. Failed to maintain a daily emissions log for three flares, in violation of 30 TEX. ADMIN. CODE §§ 111.111(a)(4)(A)(ii) and 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), and Federal Operating Permit ("FOP") No. O1704, Special Terms and Conditions No. 1(A), as documented during an investigation conducted on April 8, 2010. Specifically, the Respondent did not make a daily notation in the flare operation log for flares: EPN FLR-1, EPN FLR-2, and EPN FLR-3.
2. Failed to maintain records demonstrating compliance with periodic monitoring requirements for the cold solvent cleaners, in violation of 30 TEX. ADMIN. CODE § 122.143(4), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O1704, Special Terms and Conditions No. 8, as documented during an investigation conducted on April 8, 2010. Specifically, the Respondent did not maintain records which document that monthly checks for compliance were being conducted on the three cold solvent cleaners: EPN CSOL 1, EPN CSOL 2, and EPN CSOL 3.
3. Failed to report in writing all instances of deviations of FOP No. O1704, in violation of 30 TEX. ADMIN. CODE §§ 122.143(4) and 122.145(2), TEX. HEALTH & SAFETY CODE § 382.085(b), and FOP No. O1704, General Terms and Conditions, as documented during an investigation conducted on April 8, 2010. Specifically, the Respondent failed to report that the daily visible emissions log for the three process flares and the monthly compliance checks for the cold solvent cleaners were not being maintained and these deviations were not included in the semi-annual deviation reports for the November 1, 2008 to April 30, 2009 and May 1, 2009 to October 30, 2009 reporting periods.

III. DENIALS

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

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Fort Worth, Docket No. 2010-1334-AIR-E" to:

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

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Twelve Thousand Seven Hundred Twenty Dollars (\$12,720) of the assessed administrative penalty shall be offset with the condition that the Respondent implements the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The 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 Plant 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. 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.
7. 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.

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

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date 1/11/2011

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

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

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

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


Signature

Date 12/29/10

FERNANDO COSTA 12/29/10
Name (Printed or typed)
Authorized Representative of
City of Fort Worth

Title Acting for the Assistant
City
Manager.

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

Attachment A
Docket Number: 2010-1334-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: City of Fort Worth

Payable Penalty Amount: Twelve Thousand Seven Hundred Twenty Dollars
(\$12,720)

SEP Amount: Twelve Thousand Seven Hundred Twenty Dollars
(\$12,720)

Type of SEP: Pre-approved

Third-Party Recipient: Texas Association of Resource Conservation and
Development Areas, Inc. (“RC&D”)- Clean School
Buses

Location of SEP: Texas Air Quality Control Region 215 – Dallas-Fort
Worth

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

1. Project Description

A. Project

The Respondent shall contribute to the Third-Party Recipient pursuant to the agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to aid local school districts, area transit agencies, and local governments in need of funding assistance to pay for the cost of the following activities to reduce emissions: 1) replacing older diesel buses with alternative fuelled or clean diesel buses; or 2) retrofitting older diesel buses with new, cleaner technology. The funds will be disbursed on a needs-rated basis, using non-attainment area status, condition of buses, and economic status of the recipient as possible rating factors if competition for the funds exists. To maximize funds, retrofitting will take priority over replacement of buses. Older buses deemed not suitable for retrofitting will be permanently retired and sold only for scrap.

Acceptable retrofit technologies include particulate matter traps, diesel particulate matter filters, nitrogen oxides (NO_x) reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by the United States Environmental Protection Agency (“EPA”) or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate matter and hydrocarbon emissions from buses, to meet the new, more stringent emissions standards introduced by the EPA which will be phased in between 2007 and 2010.

C. Minimum Expenditure

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

2. Performance Schedule

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

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

3. Records and Reporting

Concurrent with the payment of the SEP amount, the Respondent shall provide the Enforcement Division SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

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

4. Failure to Fully Perform

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

City of Fort Worth
Agreed Order - Attachment A

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

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

The Respondent shall also mail a copy of the check to the Enforcement Division SEP Coordinator at the address in Section 3 above.

5. Publicity

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

6. Clean Texas Program

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

7. Other SEPs by TCEQ or Other Agencies

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