

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-1572-MWD-E **TCEQ ID:** RN102334877 **CASE NO.:** 40438
RESPONDENT NAME: Hamshire-Fannett Independent School District

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 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 checked="" 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: Fannett Campus, located approximately 1,500 feet south-southwest of the intersection of State Highway 124 and Farm-to-Market Road 365, Jefferson 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 February 7, 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 Brister, Enforcement Division, Enforcement Team 1, MC R-09, (254) 761-3034; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Keith Elliott, Superintendent, Hamshire-Fannett Independent School District, P. O. Box 223, Hamshire, Texas 77622 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 type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: August 13, 2010</p> <p>Date of NOV/NOE Relating to this Case: August 26, 2010 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>Failed to comply with permitted effluent limits for biochemical oxygen demand and total suspended solids [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012098001, Effluent Limitations and Monitoring Requirements No. 1].</p>	<p>Total Assessed: \$6,660</p> <p>Total Deferred: \$1,332 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$5,328</p> <p>Total Paid to General Revenue: \$0</p> <p>Compliance History Classifications: Person/CN - Average Site/RN - Average</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>1) The Order will require the Respondent to Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> <p>2) The Order will also require the Respondent to within 90 days after the effective date of this Agreed Order submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0012098001, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations.</p>

Additional ID No(s): WQ0012098001; TX0079138

Attachment A
Docket Number: 2010-1572-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

The Respondent: Hamshire-Fannett Independent School District

Penalty Amount: Five Thousand Three Hundred Twenty-Eight Dollars (\$5,328)

SEP Offset Amount: Five Thousand Three Hundred Twenty-Eight Dollars (\$5,328)

Type of SEP: Pre-approved SEP

Third-Party Recipient: Jefferson County Government *Cheek Community First Time Sewer Service for Low Income Home Owners*

Location of SEP: Jefferson County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The 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 **Jefferson County Government** to be used for the *Cheek Community First Time Sewer Service for Low Income Home Owners* project. Specifically, SEP monies will be used to provide first time sewer service for low-income residential customers in the Candlelight and Martel Subdivisions (Cheek Community) located in the western area of Jefferson County. This area has open sewage pits or poorly maintained septic systems which are a hazard to human health and the environment. SEP Funds will be used to install wastewater infrastructure and a low pressure sewer system consisting of grinder pump stations located at each home. The project will be administered in accordance with federal, state, and local environmental laws and regulations.

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

B. Environmental Benefit

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

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

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

The drinking water portion of this project will protect water sources for drinking, recreation and wildlife from contamination from the failing treatment systems, and protect public health from contaminated drinking water supplies.

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 shall contribute the SEP offset amount to the Third-Party Recipient. The Respondent shall mail the contribution with a copy of the Agreed Order, to:

Jefferson County Auditor's Office
Attention: Eva Collier
1149 Pearl Street 7th Floor
Beaumont Texas 77701

3. Records and Reporting

Concurrent with the payment of the SEP offset 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 offset 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 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 submit a check for any remaining amount due made payable to “Texas Commission on Environmental Quality” with the notation “SEP Refund” and the docket number of the case, and shall send 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	30-Aug-2010	Screening	15-Sep-2010	EPA Due	
	PCW	15-Sep-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	Hamshire-Fannett Independent School District
Reg. Ent. Ref. No.	RN102334877
Facility/Site Region	10-Beaumont
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	40438	No. of Violations	1
Docket No.	2010-1572-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Heather Brister
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$3,000
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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	130.0% Enhancement	Subtotals 2, 3, & 7
		\$3,900

Notes: Enhancement for 23 months of self-reported violations and three NOV's with same/similar violations.

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	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts \$500
 Approx. Cost of Compliance \$6,000
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$6,900
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OTHER FACTORS AS JUSTICE MAY REQUIRE	-3.5%	Adjustment	-\$240
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended reduction to prevent the self-reported violations from overly impacting the penalty and to prevent the double-enhancement of the penalty amount for same/similar violations that were self-reported.

Final Penalty Amount	\$6,660
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$6,660
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,332
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$5,328
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Screening Date 15-Sep-2010

Docket No. 2010-1572-MWD-E

PCW

Respondent Hamshire-Fannett Independent School District

Policy Revision 2 (September 2002)

Case ID No. 40438

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102334877

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

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>)	26	130%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 130%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for 23 months of self-reported violations and three NOVs with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 130%

Screening Date 15-Sep-2010

Docket No. 2010-1572-MWD-E

PCW

Respondent Hamshire-Fannett Independent School District

Policy Revision 2 (September 2002)

Case ID No. 40438

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102334877

Media [Statute] Water Quality

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012098001, Effluent Limitations and Monitoring Requirements No. 1

Violation Description Failed to comply with permitted effluent limits, as documented during a record review conducted on August 13, 2010, and shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
Actual				X	10%
Potential					

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	Percent
					0%

Matrix Notes

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

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3 Number of violation days 181

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

Violation Base Penalty \$3,000

Three quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$3,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$500

Violation Final Penalty Total \$6,660

This violation Final Assessed Penalty (adjusted for limits) \$6,660

Economic Benefit Worksheet

Respondent Hampshire-Fannett Independent School District
Case ID No. 40438
Reg. Ent. Reference No. RN102334877
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$6,000	30-Sep-2009	31-May-2011	1.67	\$500	n/a	\$500

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and to make necessary adjustments to achieve compliance with the permitted effluent limits. Date required is the initial month of noncompliance. Final date is the anticipated 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

\$6,000

TOTAL

\$500

Effluent Limit Violation Table

table rev.

Respondent	Hamshire-Fannett Independent School District
ID Number(s)	WQ0012098001
Docket Number	2010-1572-MWD-E
Enf. Coordinator	Heather Brister

Corresponds to Violation Number: 1

EFFLUENT PARAMETER				
Permit Limit				
	5-Day Biochemical Oxygen Demand Daily Average Concentration 20 Milligrams per Liter	5-Day Biochemical Oxygen Demand Daily Average Loading 4 Pounds per Day	Total Suspended Solids Daily Average Concentration 20 Milligrams per Liter	Total Suspended Solids Daily Average Loading 4 Pounds per Day
Month/Year				
September-2009	28.00	c	21.00	c
October-2009	24.95	c	21.23	c
November-2009	42.63	c	33.63	c
January-2010	c	5.87	21.45	8.60
February-2010	c	4.16	31.43	8.59
March-2010	c	c	c	4.54

c = compliant

Compliance History Report

Customer/Respondent/Owner-Operator:	CN601504517	Hamshire-Fannett Independent School District	Classification: AVERAGE	Rating: 1.89
Regulated Entity:	RN102334877	FANNETT CAMPUS	Classification: AVERAGE	Site Rating: 1.68
ID Number(s):	WASTEWATER		PERMIT	WQ0012098001
	WASTEWATER		EPA ID	TX0079138
	WASTEWATER LICENSING		LICENSE	WQ0012098001
Location:	Located on the Fannett Campus approximately 1,500 feet south - southwest of the intersection of State Highway 124 and Farm-to-Market Road 365 in Jefferson County, Texas			

TCEQ Region:	REGION 10 - BEAUMONT
Date Compliance History Prepared:	September 10, 2010
Agency Decision Requiring Compliance History:	Enforcement
Compliance Period:	September 10, 2005 to September 10, 2010
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History	
Name:	Heather Brister
Phone:	(254) 761-3034

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership/operator of the site during the compliance period? | No |
| 3. If Yes, who is the current owner/operator? | N/A |
| 4. If Yes, who was/were the prior owner(s)/operator(s)? | N/A |
| 5. When did the change(s) in owner or operator occur? | N/A |
| 6. Rating Date: 9/1/2010 Repeat Violator: NO | |

Components (Multimedia) for the Site :

- | | |
|---|-----|
| A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government. | 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 | 09/16/2005 | (445112) |
| 2 | 11/22/2005 | (476180) |
| 3 | 12/30/2005 | (476182) |
| 4 | 01/12/2006 | (476181) |
| 5 | 01/12/2006 | (476183) |
| 6 | 02/07/2006 | (476178) |
| 7 | 03/27/2006 | (476179) |
| 8 | 04/14/2006 | (503319) |
| 9 | 05/11/2006 | (503320) |
| 10 | 06/21/2006 | (503321) |
| 11 | 07/19/2006 | (525694) |
| 12 | 08/11/2006 | (525695) |
| 13 | 09/19/2006 | (525696) |
| 14 | 10/13/2006 | (585734) |
| 15 | 11/07/2006 | (585735) |
| 16 | 12/15/2006 | (585736) |
| 17 | 01/09/2007 | (585737) |
| 18 | 02/20/2007 | (585729) |
| 19 | 03/22/2007 | (585730) |
| 20 | 04/04/2007 | (542466) |
| 21 | 04/12/2007 | (585731) |
| 22 | 05/07/2007 | (585732) |
| 23 | 06/20/2007 | (585733) |
| 24 | 07/18/2007 | (623862) |
| 25 | 09/17/2007 | (623864) |
| 26 | 10/08/2007 | (623865) |
| 27 | 11/13/2007 | (623863) |
| 28 | 11/16/2007 | (623866) |
| 29 | 12/12/2007 | (623867) |
| 30 | 12/18/2007 | (609953) |
| 31 | 01/18/2008 | (675030) |
| 32 | 02/22/2008 | (675029) |
| 33 | 03/11/2008 | (638290) |

34	03/17/2008	(693386)
35	04/07/2008	(693387)
36	05/19/2008	(693388)
37	06/13/2008	(714626)
38	07/24/2008	(714627)
39	08/15/2008	(714628)
40	09/10/2008	(714629)
41	10/17/2008	(730580)
42	11/19/2008	(730581)
43	12/12/2008	(730579)
44	12/22/2008	(730582)
45	02/06/2009	(753797)
46	02/27/2009	(753796)
47	03/30/2009	(771181)
48	04/16/2009	(736113)
49	04/20/2009	(771182)
50	05/15/2009	(771183)
51	06/29/2009	(813492)
52	07/08/2009	(813493)
53	09/10/2009	(813494)
54	10/22/2009	(813495)
55	11/03/2009	(776587)
56	11/16/2009	(813496)
57	12/21/2009	(813497)
58	01/04/2010	(785541)
59	01/22/2010	(813498)
60	03/08/2010	(813491)
61	04/08/2010	(833980)
62	04/28/2010	(833981)
63	05/21/2010	(833982)
64	06/16/2010	(847220)
65	08/27/2010	(849095)

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

Date: **09/30/2005** (476180) **CN601504517**
 Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)

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

Date: **10/31/2005** (476181) **CN601504517**
 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: **11/30/2005** (476182) **CN601504517**
 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: **12/31/2005** (476183) **CN601504517**
 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: **01/31/2006** (476178) **CN601504517**
 Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121(a)

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

Date: 03/31/2006 (503319) CN601504517
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: 06/30/2006 (525694) CN601504517
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2006 (585735) CN601504517
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 04/05/2007 (542466) CN601504517
Self Report? NO Classification: Minor
Citation: OpR1 PERMIT
Description: Failure by Hamshire- Fannett ISD to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.

Self Report? NO Classification: Moderate
Citation: ELMR2 PERMIT
Description: Failure by Hamshire-Fannett ISD to discharge effluent that is compliant with the permitted effluent limits for total chlorine residual.

Self Report? NO Classification: Moderate
Citation: ELMR3 PERMIT
Description: Failure by Hamshire-Fannett ISD to comply with the permitted effluent limits for pH.

Self Report? NO Classification: Moderate
Citation: M&RR7c PERMIT
Description: Failure by Hamshire-Fannett ISD to notify the TCEQ Region 10 Office and the Manager of the Enforcement Section III (MC 149) of the Enforcement Division, within the required notification period, for each effluent violation which deviated from the permitted effluent limitation by more than 40%.

Date: 02/29/2008 (693386) CN601504517
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2008 (730581) CN601504517
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2008 (730582) CN601504517

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

Date: 12/31/2008 (753797)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2009 (753796) CN601504517
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: 02/28/2009 (771181) CN601504517
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2009 (771182)
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 (771183) CN601504517
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2009 (813492)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2009 (813495) CN601504517
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2009 (813496)
Self Report? YES Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 11/03/2009 (776587) CN601504517
Self Report? NO Classification: Minor
Citation: MRR PERMIT
Description: Failure by Hamshire-Fannett Independent School District to have records available.

Self Report?	NO	Classification: Moderate
Citation:	OpR PERMIT	
Description:	Failure by Hamshire-Fannett Independent School District to properly operate and maintain units of treatment and collection.	
Self Report?	NO	Classification: Moderate
Citation:	OpR PERMIT	
Description:	Failure by Hamshire-Fannett Independent School District to properly operate and maintain units of treatment and collection.	
Self Report?	NO	Classification: Moderate
Citation:	OpR PERMIT	
Description:	Failure by Hamshire-Fannett Independent School District to properly operate and maintain units of treatment and collection.	
Self Report?	NO	Classification: Minor
Citation:	OpR PERMIT	
Description:	Failure by Hamshire-Fannett Independent School District to properly operate and maintain units of treatment and collection.	
Self Report?	NO	Classification: Moderate
Citation:	MRR PERMIT	
Description:	Failure by Hamshire-Fannett Independent School District to accurately calibrate the flow measuring device.	
Self Report?	NO	Classification: Minor
Citation:	ELMR PERMIT	
Description:	Failure by Hamshire-Fannett Independent School District to discharge compliant effluent.	
Self Report?	NO	Classification: Moderate
Citation:	ELMR PERMIT	
Description:	Failure by Hamshire-Fannett Independent School District to discharge compliant effluent.	
Self Report?	NO	Classification: Minor
Citation:	MRR PERMIT	
Description:	Failure by Hamshire-Fannett Independent School District to submit effluent violation reports for those that exceed 40%.	
Self Report?	NO	Classification: Minor
Citation:	PC PERMIT	
Description:	Failure by Hamshire-Fannett Independent School District to properly complete the discharge monitoring report.	
Self Report?	NO	Classification: Moderate
Citation:	MRR PERMIT	
Description:	Failure by Hamshire-Fannett Independent School District to maintain records.	
Self Report?	NO	Classification: Minor
Citation:	MRR PERMIT	
Description:	Failure by Hamshire-Fannett Independent School District to comply with procedures specified in 30 TAC 319.11 - 319.12.	
Self Report?	NO	Classification: Moderate
Citation:	OpR PERMIT	

Description: Failure by Hamshire-Fannet Independent School to properly operate and maintain units of treatment and collection.

Date: 11/30/2009 (813497) CN601504517
Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

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

Date: 01/04/2010 (785541) CN601504517
Self Report? NO Classification: Minor

Citation: PC PERMIT

Description: Failure by Hamshire-Fannett Independent School District to properly complete the discharge monitoring report.

Self Report? NO Classification: Moderate

Citation: OpR PERMIT

Description: Failure by Hamshire-Fannett Independent School District to prevent solids from entering the receiving stream.

Self Report? NO Classification: Minor

Citation: OpR PERMIT

Description: Failure by Hamshire-Fannett Independent School District to properly operate and maintain units of treatment and collection.

Date: 01/31/2010 (813491)
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: 02/28/2010 (833980) CN601504517
Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

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

Date: 03/31/2010 (833981) CN601504517
Self Report? YES Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)

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

- F. Environmental audits. N/A
- G. Type of environmental management systems (EMSs). N/A
- H. Voluntary on-site compliance assessment dates. N/A
- I. Participation in a voluntary pollution reduction program. N/A
- J. Early compliance. N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
HAMSHIRE-FANNETT
INDEPENDENT SCHOOL
DISTRICT
RN102334877**

§
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§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

**AGREED ORDER
DOCKET NO. 2010-1572-MWD-E**

I. JURISDICTION AND STIPULATIONS

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

1. The Respondent owns and operates a wastewater treatment plant located on the Fannett Campus approximately 1,500 feet south-southwest of the intersection of State Highway 124 and Farm-to-Market Road 365 in Jefferson County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about August 31, 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 Six Thousand Six Hundred Sixty Dollars (\$6,660) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Three Hundred Thirty-Two Dollars (\$1,332) 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. Five Thousand Three Hundred Twenty-Eight Dollars (\$5,328) of the administrative penalty shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0012098001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on August 13, 2010, and shown in the following table:

EFFLUENT PARAMETER				
Permit Limit				
	5-Day Biochemical Oxygen Demand Daily Average Concentration 20 Milligrams per Liter	5-Day Biochemical Oxygen Demand Daily Average Loading 4 Pounds per Day	Total Suspended Solids Daily Average Concentration 20 Milligrams per Liter	Total Suspended Solids Daily Average Loading 4 Pounds per Day
Month/Year				
September-2009	28.00	c	21.00	c
October-2009	24.95	c	21.23	c
November-2009	42.63	c	33.63	c
January-2010	c	5.87	21.45	8.60
February-2010	c	4.16	31.43	8.59
March-2010	c	c	c	4.54

c = compliant

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: Hamshire-Fannett Independent School District, Docket No. 2010-1572-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Five Thousand Three Hundred Twenty-Eight Dollars (\$5,328) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the effluent limits of TPDES Permit No. WQ0012098001, including specific corrective actions that were

implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Beaumont Regional Office
Texas Commission on Environmental Quality
3870 Eastex Freeway
Beaumont, Texas 77703-1892

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director.

The determination of what constitutes good cause rests solely with the Executive Director.

7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

[Handwritten Signature]
For the Executive Director

1/10/2011
Date

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

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

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

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

Keith Elliott
Signature

12/1/2010
Date

Keith Elliott
Name (Printed or typed)
Authorized Representative of
Hamshire-Fannett Independent School District

Superintendent
Title

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

Attachment A
Docket Number: 2010-1572-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

The Respondent: **Hamshire-Fannett Independent School District**

Penalty Amount: **Five Thousand Three Hundred Twenty-Eight Dollars (\$5,328)**

SEP Offset Amount: **Five Thousand Three Hundred Twenty-Eight Dollars (\$5,328)**

Type of SEP: **Pre-approved SEP**

Third-Party Recipient: **Jefferson County Government *Cheek Community First Time Sewer Service for Low Income Home Owners***

Location of SEP: **Jefferson County**

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative penalty amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project (“SEP”). The 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 **Jefferson County Government** to be used for the *Cheek Community First Time Sewer Service for Low Income Home Owners* project. Specifically, SEP monies will be used to provide first time sewer service for low-income residential customers in the Candlelight and Martel Subdivisions (Cheek Community) located in the western area of Jefferson County. This area has open sewage pits or poorly maintained septic systems which are a hazard to human health and the environment. SEP Funds will be used to install wastewater infrastructure and a low pressure sewer system consisting of grinder pump stations located at each home. The project will be administered in accordance with federal, state, and local environmental laws and regulations.

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

B. Environmental Benefit

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

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

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

The drinking water portion of this project will protect water sources for drinking, recreation and wildlife from contamination from the failing treatment systems, and protect public health from contaminated drinking water supplies.

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 shall contribute the SEP offset amount to the Third-Party Recipient. The Respondent shall mail the contribution with a copy of the Agreed Order, to:

Jefferson County Auditor's Office
Attention: Eva Collier
1149 Pearl Street 7th Floor
Beaumont Texas 77701

3. Records and Reporting

Concurrent with the payment of the SEP offset 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 offset 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 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 submit a check for any remaining amount due made payable to “Texas Commission on Environmental Quality” with the notation “SEP Refund” and the docket number of the case, and shall send 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.