EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2010-1340-MWD-E **TCEQ ID:** RN103119087 **CASE NO.:** 40136

RESPONDENT NAME: City of Uvalde

ORDER TYPE:		
X 1660 AGREED ORDER	__FINDINGS AGREED ORDER	__FINDINGS ORDER FOLLOWING SOAH HEARING
__FINDINGS DEFAULT ORDER	__SHUTDOWN ORDER	__IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
__AMENDED ORDER	__EMERGENCY ORDER	
CASE TYPE:		
__AIR	__MULTI-MEDIA (check all that apply)	__INDUSTRIAL AND HAZARDOUS WASTE
__PUBLIC WATER SUPPLY	__PETROLEUM STORAGE TANKS	__OCCUPATIONAL CERTIFICATION
X WATER QUALITY	__SEWAGE SLUDGE	__UNDERGROUND INJECTION CONTROL
__MUNICIPAL SOLID WASTE	__RADIOACTIVE WASTE	__DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: City of Uvalde WWTP, located approximately 1.3 miles southwest of the intersection of Farm-to-Market Road 117 and United States Highway 83, Uvalde County

TYPE OF OPERATION: Wastewater treatment plant

SMALL BUSINESS: ___ Yes __X__ No

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

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

COMMENTS RECEIVED: The *Texas Register* comment period expired on March 14, 2011. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223
TCEQ Enforcement Coordinator: Mr. Jeremy Escobar, Enforcement Division, Enforcement Team 3, MC R-14, (361) 825-3422; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495
Respondent: The Honorable Cody Smith, Mayor, City of Uvalde, P.O. Box 799, Uvalde, Texas 78802
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
Type of Investigation: __ Complaint __ Routine __ Enforcement Follow-up X Records Review **Date(s) of Complaints Relating to this Case:** None **Date of Investigation Relating to this Case:** July 6, 2010 **Date of NOV/NOE Relating to this Case:** July 22, 2010 (NOE) **Background Facts:** This was a records review. **WATER** Failed to comply with permitted effluent limitations for ammonia nitrogen [30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010306001, Effluent Limitations and Monitoring Requirements No. 1 for Outfalls 001 and 002].	**Total Assessed:** $8,400 **Total Deferred:** $1,680 X Expedited Settlement __Financial Inability to Pay **SEP Conditional Offset:** $6,720 **Total Paid (Due) to General Revenue:** $0 **Compliance History Classification:** Person/CN – Average Site/RN – Average **Major Source:** X Yes ___ No **Applicable Penalty Policy:** September 2002	**Ordering Provisions:** 1) The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A) 2) The Order will also require the Respondent to, within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0010306001, 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.

Additional ID No(s).: MWD 10306-001

Attachment A
Docket Number: 2010-1340-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Uvalde
Penalty Amount:	Six Thousand Seven Hundred Twenty Dollars ($6,720)
SEP Offset Amount:	Six Thousand Seven Hundred Twenty Dollars ($6,720)
Type of SEP:	Custom
Location of SEP:	Uvalde County; Nueces River Basin

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

1. Project Description

A. Project

The Respondent shall replant the Cooks Slough Nature Park constructed wetland, which is a freshwater marsh with new emergent plantings including approximately one-thousand cattails (Typha latifolia) and an equal number of soft stem bulrushes (Scirpus validus). Water levels will be lowered to allow for proper planting. Plantings will be made in the shallow areas of the wetland following the seasonal departure of migratory waterfowl from the existing wetland area.

The Respondent shall perform this project in accordance with all federal, state and local environmental laws and regulations. The Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs.

The Respondent 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

Wetlands provide productive ecosystems that are rich in organic matter and nutrients which support organisms within the wetland and can be effective in improving the water quality in area lakes, rivers, and estuaries. Improving wetland vegetation impacts the productivity of these systems by supporting waterfowl and other wildlife, as well as capturing sediments, and filtering pollutants, which improves water quality.

This SEP will provide a discernible environmental benefit by providing and dedicating water for wildlife habitat, specifically freshwater ecosystems, while simultaneously improving water quality into the Leona River through natural processes in the wetland system. Increased water reuse in the region further threatens to eliminate such habitats by eliminating the wastewater that has replaced lost spring flow.

C. Minimum Expenditure

The Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this Attachment A.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin implementation of the SEP. The Respondent shall perform the SEP in accordance with the schedule shown in the Performance Schedule Deliverables table below and shall have completed the SEP in its entirety within one year following the effective date of this Agreed Order.

Days from Effective Order Date	Percentage of Project to be Completed	Performance Schedule Deliverables
30	Begin	Notice of Commencement describing actions being taken to begin project, such as site preparation.
120	1/2	Submit Scope of Work for the project; including a map showing the specific area(s) where work will be performed.
365	Completion	Final Completion of SEP with Final Report to be provided within 60 days of completion date, as described in Section 3.B., below

3. Reporting

A. Progress Reports

Within 90 days after the effective date of this Agreed Order, the Respondent shall submit a report to the TCEQ indicating the progress made to date and setting forth a schedule for achieving completion within the time required above.

Days from Effective Order Date	Progress Report Deliverables
30	First Progress Report including Notice of Commencement describing actions being taken to begin project.
90	Second Progress Report to provide report of actions taken to implement project.
120	Third Progress Report to provide report of actions taken to implement project, including copy of any and all permits.
210	Fourth Progress Report to provide report of actions taken to implement project, including photographs showing work in progress, such as lowered water levels, removal of non-native species, and replanting of native species.
270	Fifth Progress Report to provide report of actions taken to implement project.
365	Notice of SEP Completion with Final Report to follow within 60 days of completion of project.

B. Final Report

Within 60 days after completion of the project, the Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and total of costs incurred;
2. Copies of all receipts, checks, or other verifying documentation;
3. Photographs of the project, including **before implementing the project, during implementation of the project and after completion for each area**;
4. A map identifying the location(s) of the work performed. The map must be of sufficient detail to allow TCEQ staff to verify the location(s) of the completed project;
5. List of plant species, and number of each type planted at each location;
6. Copies of Time Sheets certified by payroll supervisor for any overtime work performed. Must include first and last names, date(s) of work, number of hours worked, and rate of pay;
7. A statement of quantifiable environmental benefits; and
8. Any additional information that will demonstrate compliance with this Attachment A.

C. Address

The Respondent shall submit all SEP reports and any requested additional information to the following address:

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

4. Additional Information and Access

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

5. Failure to Fully Perform

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

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

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

6. Publicity

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

7. Clean Texas Program

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

8. Other SEPs by TCEQ or Other Agencies

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

Penalty Calculation Worksheet (PCW)

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

TCEQ

DATES					
Assigned	26-Jul-2010				
PCW	16-Aug-2010	Screening	3-Aug-2010	EPA Due	5-Dec-2010

RESPONDENT/FACILITY INFORMATION

Respondent	City of Uvalde		
Reg. Ent. Ref. No.	RN103119087		
Facility/Site Region	13-San Antonio	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	40136	No. of Violations	1
Docket No.	2010-1340-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Carlie Konkol
		EC's Team	Enforcement Team 3

Admin. Penalty $ Limit Minimum $0 Maximum $10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) — *Subtotal 1* **$5,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

Compliance History — 68.0% Enhancement — *Subtotals 2, 3, & 7* **$3,400**

Notes: Enhancement for eight monthly self-reported effluent violations, four NOVs with dissimilar violations and one agreed order with a denial of liability.

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

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments — *Subtotal 5* **$0**

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

Total EB Amounts $758
Approx. Cost of Compliance $10,000

**Capped at the Total EB $ Amount*

SUM OF SUBTOTALS 1-7 — *Final Subtotal* **$8,400**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **$8,400**

STATUTORY LIMIT ADJUSTMENT — *Final Assessed Penalty* **$8,400**

DEFERRAL — 20.0% Reduction — *Adjustment* **-$1,680**

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 **$6,720**

Screening Date 3-Aug-2010 **Docket No.** 2010-1340-MWD-E **PCW**

Respondent City of Uvalde

Case ID No. 40136

Reg. Ent. Reference No. RN103119087

Media [Statute] Water Quality

Enf. Coordinator Carlie Konkol

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (*number of NOVs meeting criteria*)	8	40%
	Other written NOVs	4	8%
Orders	Any agreed final enforcement orders containing a denial of liability (*number of orders meeting criteria*)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (*number of judgements or consent decrees meeting criteria*)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (*number of*	0	0%
Emissions	Chronic excessive emissions events (*number of events*)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 *(number of audits for which notices were submitted)*	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (*number of audits for which violations were disclosed*)	0	0%

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

Adjustment Percentage (Subtotal 2) 68%

>> 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 eight monthly self-reported effluent violations, four NOVs with dissimilar violations and one agreed order with a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 68%

Screening Date 3-Aug-2010 **Docket No.** 2010-1340-MWD-E **PCW**

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

Case ID No. 40136 *PCW Revision October 30, 2008*

Reg. Ent. Reference No. RN103119087

Media [Statute] Water Quality

Enf. Coordinator Carlie Konkol

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1), Tex. Water Code § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010306001, Effluent Limitations and Monitoring Requirements No. 1 for Outfalls 001 and 002

Violation Description Failed to comply with permitted effluent limitations, as documented during a record review on July 6, 2010 and shown in the attached Effluent Table.

Base Penalty $10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm: Major	Moderate	Minor
Actual			x
Potential			

Percent 25%

>>Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes: A simplified model was used to evaluate ammonia nitrogen to determine whether the discharged amounts of pollutants exceeded levels protective of human health or the environment. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.

Adjustment $7,500

$2,500

Violation Events

Number of Violation Events 2 61 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty $5,000

Two quarterly events are recommended (one quarter for each outfall).

Good Faith Efforts to Comply

0.0% Reduction $0

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

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

Violation Subtotal $5,000

Economic Benefit (EB) for this violation

Estimated EB Amount $758

Statutory Limit Test

Violation Final Penalty Total $8,400

This violation Final Assessed Penalty (adjusted for limits) $8,400

Economic Benefit Worksheet

Respondent City of Uvalde
Case ID No. 40136
Reg. Ent. Reference No. RN103119087
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	$10,000	31-Mar-2010	30-Apr-2011	1.08	$36	$721	$758
Land				0.00	$0	n/a	$0
Record Keeping System				0.00	$0	n/a	$0
Training/Sampling				0.00	$0	n/a	$0
Remediation/Disposal				0.00	$0	n/a	$0
Permit Costs				0.00	$0	n/a	$0
Other (as needed)				0.00	$0	n/a	$0

Notes for DELAYED costs Estimated costs to evaluate the wastewater treatment system to identify and repair problems related to the treatment system. The Date Required is the first date of noncompliance. The Final Date is the expected compliance date with permitted effluent limitations.

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

Notes for AVOIDED costs

Approx. Cost of Compliance $10,000

TOTAL $758

City of Uvalde
Docket No. 2010-1340-MWD-E
TPDES Permit No. WQ0010306001

Effluent Table – Outfall 001		
Monitoring Periods	Permitted Effluent Limits	
	Ammonia Nitrogen Daily Average Conc. 2.0 mg/L	Ammonia Nitrogen Daily Average Loading 16 lbs/day
March 2010	4.0	C
April 2010	9.0	C

Effluent Table – Outfall 002		
Monitoring Periods	Permitted Effluent Limits	
	Ammonia Nitrogen Daily Average Conc. 2.0 mg/L	Ammonia Nitrogen Daily Average Loading 8.3 lbs/day
March 2010	4.0	12.0
April 2010	9.0	16.0

Conc. - Concentration
mg/L – milligrams per liter

C – In Compliance
lbs/day – pounds per day

Compliance History Report

Customer/Respondent/Owner-Operator:	CN600648455	City of Uvalde	Classification: AVERAGE	Rating: 2.29
Regulated Entity:	RN103119087	CITY OF UVALDE WWTP	Classification: AVERAGE	Site Rating: 1.42

ID Number(s):	WASTEWATER	PERMIT	WQ0010306001
	WASTEWATER	EPA ID	TX0023094
	WASTEWATER LICENSING	LICENSE	WQ0010306001

Location: LOCATED APPROXIMATELY 1.3 MILES SOUTHWEST OF THE INTERSECTION OF FARM-TO-MARKET ROAD 117 & UNITED STATES HIGHWAY 83 IN UVALDE COUNTY, TEXAS.

TCEQ Region: REGION 13 - SAN ANTONIO

Date Compliance History Prepared: July 28, 2010
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: July 28, 2005 to July 28, 2010

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History:
Name: Carlie Konkol Phone: (512) 239-0735

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 of the site during the compliance period?	No
3. If Yes, who is the current owner?	N/A
4. If Yes, who was/were the prior owner(s)?	N/A
5. When did the change(s) in ownership occur?	N/A

6. Rating Date: 9/1/2009 Repeat Violator: NO

Components (Multimedia) for the Site :

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

Effective Date: 11/9/2007 ADMINORDER 2006-1842-MWD-E
Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: Effluent Limits PERMIT
Description: Failure to comply with permit effluent limits.

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	07/31/2005	(393200)
2	09/21/2005	(441544)
3	10/20/2005	(469855)
4	11/15/2005	(449395)
5	11/16/2005	(469856)
6	12/15/2005	(449460)
7	12/20/2005	(469857)
8	02/27/2006	(469853)
9	03/16/2006	(496969)
10	03/17/2006	(469854)
11	03/31/2006	(469858)
12	04/19/2006	(499086)
13	05/15/2006	(499087)
14	05/25/2006	(499089)
15	06/19/2006	(499088)
16	08/17/2006	(521133)
17	09/11/2006	(521134)

18	10/12/2006	(514314)
19	10/20/2006	(545626)
20	11/15/2006	(545627)
21	12/14/2006	(545628)
22	12/18/2006	(545629)
23	02/20/2007	(577309)
24	03/15/2007	(577310)
25	03/29/2007	(593206)
26	04/19/2007	(577311)
27	05/17/2007	(577312)
28	05/23/2007	(577314)
29	05/23/2007	(577315)
30	06/23/2007	(577313)
31	09/13/2007	(602152)
32	09/13/2007	(602153)
33	10/16/2007	(620265)
34	11/19/2007	(620266)
35	12/19/2007	(620267)
36	02/20/2008	(672617)
37	03/25/2008	(672618)
38	04/09/2008	(690606)
39	04/28/2008	(690608)
40	05/16/2008	(690607)
41	06/20/2008	(711450)
42	07/17/2008	(681453)
43	07/22/2008	(681449)
44	08/11/2008	(711451)
45	09/15/2008	(711452)
46	10/16/2008	(727992)
47	10/27/2008	(727991)
48	10/27/2008	(727995)
49	11/17/2008	(727993)
50	12/16/2008	(727994)
51	02/19/2009	(750899)
52	03/11/2009	(750900)
53	04/21/2009	(768852)
54	01/08/2010	(806272)
55	01/25/2010	(782643)
56	02/16/2010	(806271)
57	03/16/2010	(831447)
58	04/22/2010	(831448)
59	04/30/2010	(827805)
60	05/17/2010	(831449)
61	07/22/2010	(829939)

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

Date: 08/02/2005 (393200) CN600648455

Self Report? NO Classification: Minor

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

Description: Failure to install a totalizer meter at Outfall 001.

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 319, SubChapter A 319.11(b)

Description: Failure to maintain the composite samples in the Outfall 001 compositer at the recommended 4 degrees Celsius.

Date: 03/16/2006 (496969) CN600648455

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)

Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 03/31/2006 (499086) CN600648455
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2006 (499088) CN600648455
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 (499089) CN600648455
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: 07/31/2006 (521133) CN600648455
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: 03/29/2007 (593206) CN600648455
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

Date: 12/31/2007 (577315) CN600648455
Self Report? YES Classification: Moderate
Citation: TWC Chapter 26 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: 04/30/2008 (690607) CN600648455
Self Report? YES Classification: Moderate
Citation: TWC Chapter 26 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 (831448) CN600648455
Self Report? YES Classification: Moderate
Citation: TWC Chapter 26 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2010 (831449) CN600648455
Self Report? YES Classification: Moderate
Citation: TWC Chapter 26 26.121(a)
30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2010 (827805) CN600648455
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
30 TAC Chapter 305, SubChapter F 305.125(17)
Description: NON-RPT VIOS FOR MONIT PER OR PIPE

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	**§**	**BEFORE THE**
ENFORCEMENT ACTION	**§**	
CONCERNING	**§**	**TEXAS COMMISSION ON**
CITY OF UVALDE	**§**	
RN103119087	**§**	**ENVIRONMENTAL QUALITY**

AGREED ORDER
DOCKET NO. 2010-1340-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 the City of Uvalde ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant located approximately 1.3 miles southwest of the intersection of Farm-to-Market Road 117 and United States Highway 83 in Uvalde 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 July 27, 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 Eight Thousand Four Hundred Dollars ($8,400) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Six Hundred Eighty Dollars ($1,680) is deferred

contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order and Six Thousand Seven Hundred Twenty Dollars ($6,720) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP"). 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 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 limitations, in violation of 30 TEX. ADMIN. CODE § 305.125(1), TEX. WATER CODE § 26.121(a), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010306001, Effluent Limitations and Monitoring Requirements No. 1 for Outfalls 001 and 002, as documented during a record review conducted on July 6, 2010 and shown in the Effluent Tables below.

Effluent Table – Outfall 001		
Monitoring Periods	Permitted Effluent Limits	
	Ammonia Nitrogen Daily Average Conc. 2.0 mg/L	Ammonia Nitrogen Daily Average Loading 16 lbs/day
March 2010	4.0	C
April 2010	9.0	C

Effluent Table – Outfall 002		
Monitoring Periods	Permitted Effluent Limits	
	Ammonia Nitrogen Daily Average Conc. 2.0 mg/L	Ammonia Nitrogen Daily Average Loading 8.3 lbs/day
March 2010	4.0	12.0
April 2010	9.0	16.0

Conc. - Concentration
mg/L – milligrams per liter
C – In Compliance
lbs/day – pounds per day

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 Uvalde, Docket No. 2010-1340-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, Six Thousand Seven Hundred Twenty Dollars ($6,720) 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. 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 permitted effluent limitations of TPDES Permit No. WQ0010306001, 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 fine 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
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

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

_____ 2/17/2011
For the Executive Director 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.

_____ December 21, 2010
Signature Date

Cody Smith _____ Mayor _____
Name (Printed or typed) Title
Authorized Representative of
City of Uvalde

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: 2010-1340-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Uvalde
Penalty Amount:	Six Thousand Seven Hundred Twenty Dollars ($6,720)
SEP Offset Amount:	Six Thousand Seven Hundred Twenty Dollars ($6,720)
Type of SEP:	Custom
Location of SEP:	Uvalde County; Nueces River Basin

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

1. Project Description

A. Project

The Respondent shall replant the Cooks Slough Nature Park constructed wetland, which is a freshwater marsh with new emergent plantings including approximately one-thousand cattails (Typha latifolia) and an equal number of soft stem bulrushes (Scirpus validus). Water levels will be lowered to allow for proper planting. Plantings will be made in the shallow areas of the wetland following the seasonal departure of migratory waterfowl from the existing wetland area.

The Respondent shall perform this project in accordance with all federal, state and local environmental laws and regulations. The Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs.

The Respondent 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

Wetlands provide productive ecosystems that are rich in organic matter and nutrients which support organisms within the wetland and can be effective in improving the water quality in area lakes, rivers, and estuaries. Improving wetland vegetation impacts the productivity of these systems by supporting waterfowl and other wildlife, as well as capturing sediments, and filtering pollutants, which improves water quality.

This SEP will provide a discernible environmental benefit by providing and dedicating water for wildlife habitat, specifically freshwater ecosystems, while simultaneously improving water quality into the Leona River through natural processes in the wetland system. Increased water reuse in the region further threatens to eliminate such habitats by eliminating the wastewater that has replaced lost spring flow.

C. Minimum Expenditure

The Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this Attachment A.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin implementation of the SEP. The Respondent shall perform the SEP in accordance with the schedule shown in the Performance Schedule Deliverables table below and shall have completed the SEP in its entirety within one year following the effective date of this Agreed Order.

Days from Effective Order Date	Percentage of Project to be Completed	Performance Schedule Deliverables
30	Begin	Notice of Commencement describing actions being taken to begin project, such as site preparation.
120	1/2	Submit Scope of Work for the project; including a map showing the specific area(s) where work will be performed.
365	Completion	Final Completion of SEP with Final Report to be provided within 60 days of completion date, as described in Section 3.B., below

3. Reporting

A. Progress Reports

Within 90 days after the effective date of this Agreed Order, the Respondent shall submit a report to the TCEQ indicating the progress made to date and setting forth a schedule for achieving completion within the time required above.

Days from Effective Order Date	Progress Report Deliverables
30	First Progress Report including Notice of Commencement describing actions being taken to begin project.
90	Second Progress Report to provide report of actions taken to implement project.
120	Third Progress Report to provide report of actions taken to implement project, including copy of any and all permits.
210	Fourth Progress Report to provide report of actions taken to implement project, including photographs showing work in progress, such as lowered water levels, removal of non-native species, and replanting of native species.
270	Fifth Progress Report to provide report of actions taken to implement project.
365	Notice of SEP Completion with Final Report to follow within 60 days of completion of project.

B. Final Report

Within 60 days after completion of the project, the Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and total of costs incurred;
2. Copies of all receipts, checks, or other verifying documentation;
3. Photographs of the project, including **before implementing the project, during implementation of the project and after completion for each area**;
4. A map identifying the location(s) of the work performed. The map must be of sufficient detail to allow TCEQ staff to verify the location(s) of the completed project;
5. List of plant species, and number of each type planted at each location;
6. Copies of Time Sheets certified by payroll supervisor for any overtime work performed. Must include first and last names, date(s) of work, number of hours worked, and rate of pay;
7. A statement of quantifiable environmental benefits; and
8. Any additional information that will demonstrate compliance with this Attachment A.

C. Address

The Respondent shall submit all SEP reports and any requested additional information to the following address:

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

4. Additional Information and Access

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

5. Failure to Fully Perform

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

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

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

6. Publicity

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

7. Clean Texas Program

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

8. Other SEPs by TCEQ or Other Agencies

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