

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2010-1501-MWD-E **TCEQ ID:** RN101609741 **CASE NO.:** 40392
RESPONDENT NAME: City of Crockett

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: North Plant, located on the west bank of Town Branch; approximately 2,000 feet north of the intersection of the Missouri-Pacific Railroad with State Loop 304, Houston County</p> <p>TYPE OF OPERATION: Wastewater treatment system</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 March 14, 2011. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223 TCEQ Enforcement Coordinator: Mr. Jordan Jones, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2569; Ms. Laurie Eaves, Enforcement Division, MC 219, (512) 239-4495 Respondent: Mr. Ron Duncan, City Administrator, City of Crockett, 200 North 5th Street, Crockett, Texas 75835 The Honorable Wayne Mask, Mayor, City of Crockett, 200 North 5th Street, Crockett, Texas 75835 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 11, 2010</p> <p>Date of NOV/NOE Relating to this Case: September 10, 2010 (NOE)</p> <p>Background Facts: This was a records review.</p> <p>WATER</p> <p>Failed to comply with permitted effluent limits for total ammonia-nitrogen and dissolved oxygen [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010154001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6].</p>	<p>Total Assessed: \$9,850</p> <p>Total Deferred: \$1,970 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$7,880</p> <p>Total Paid (Due) to General Revenue: \$0</p> <p>Compliance History Classification: Person/CN – Average Site/RN – Average</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>1) The Order will require the 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 permitted effluent limitations of TPDES Permit No. WQ0010154001 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): WQ0010154001

Attachment A
Docket Number: 2010-1501-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Crockett
Penalty Amount:	Seven Thousand Eight Hundred Eighty Dollars (\$7,880)
SEP Offset Amount:	Seven Thousand Eight Hundred Eighty Dollars (\$7,880)
Type of SEP:	Custom – <i>Erosion Control</i>
Location of SEP:	Houston County; Nueces and Trinity River Basins

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 perform an erosion control project (the “project”) in Town Branch Creek in Houston County, Texas, to reduce siltation in a seasonal tributary that flows into Hurricane Bayou and into the Trinity River. The project will consist of the installation R-Rap Walls (also known as Bag Walls) along Town Branch Creek to protect the slope and reduce or eliminate erosion along the creek bed. The initial R-Rap Wall will be installed along the creek bed beginning north of Pease Street (31 degs. 19’28.71”N 95 degs. 28’00.44”W) and will continue downstream to the entrance of the North Wastewater Treatment Plant (31 degs. 19’59.21”N 95 degs. 28’24.17”W), approximately 4,352 linear feet.

The Respondent shall perform the project in accordance with all federal, state, and local environmental laws and regulations. The Respondent agrees to obtain any and all required permit(s) prior to commencement of the project, including a **Nationwide Permit** from the U.S. Corps of Engineers; the **Marl, Sand, Gravel, Shell or Mudshell Permit** from the Texas Parks and Wildlife Department; and rights-of-way easement authorizations. The Respondent shall spend the SEP Offset Amount only for the direct cost of implementing the project. No portion of the SEP Offset Amount shall be spent on administrative costs.

The Respondent’s signature affixed to this Agreed Order certifies that there is no prior commitment to do the project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by stabilizing the Town Branch Creek bank thus preventing or significantly reducing further erosion, sedimentation, siltation, and pooling of stagnant water downstream. Continued erosion will lead to high sediment loads, silting, and disruption of ecosystems in downstream waterways. The project will benefit and protect the water quality of Town Branch Creek and the Nueces and Trinity River Basins.

C. Minimum Expenditure

The Respondent shall spend at least the SEP Offset Amount to complete the project and shall comply with all other provisions of this Attachment A. The Respondent understands that it may cost more than the

SEP Offset Amount to complete the project.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin implementation of the project, and shall complete the project in its entirety within 365 days after the effective date of this Agreed Order.

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 detailing the progress made on the project during the previous 60-day period and setting forth a schedule for achieving completion of the project within the time-frame required in Section 2, above. Thereafter, the Respondent shall submit progress reports to the TCEQ in the following increments and containing detailed information as set forth in the table below:

Table 1: Required Information

Days from Effective Order Date	Required Information
90	Actions taken during the previous 60-day period to implement the project
180	Actions taken during the previous 90-day period to implement the project, including copies of Rights-of-Way Easement Authorizations and of any and all permits obtained pursuant to Section 1.A., above
270	Actions taken during the previous 90-day period to implement the project, including photographs showing work completed to-date
365	Notice of project completion

B. Final Report

Within 60 days after completion of the project, and not later than 425 days after the effective date of the Agreed Order, the Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and total of costs incurred to complete the project;
2. Copies of invoices, paid receipts, and cleared checks corresponding to the itemized list required in paragraph 3.B.1., above;
3. Copies of verification documentation including Record Drawings;
4. Photographs of the completed project;
5. A map identifying the location of the work performed. The map must be of sufficient detail to allow TCEQ staff to verify the location of the completed project;
6. A certified/notarized statement of quantifiable environmental benefits produced by the project; and
7. Any information required in Section 3 and any additional information that will demonstrate

compliance with this SEP agreement.

C. Address

The Respondent shall submit all reports required and supporting documentation required by the SEP agreement and any requested additional information to the following address:

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

4. Additional Information and Access

The Respondent shall provide any additional information required by TCEQ staff and shall allow access to all records related to the receipt and expenditure of SEP Offset Amount. The Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by SEP Offset Amount. This provision shall survive 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 Sections 2 and 3 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to complete the project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and 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 check payable to "Texas Commission on Environmental Quality" and shall mail it to:

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

6. Publicity

Any public statements concerning this SEP and/or the project made by or on behalf of 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 but are not limited to 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	13-Sep-2010	Screening	14-Sep-2010	EPA Due	5-Dec-2010
	PCW	8-Nov-2010				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Crockett
Reg. Ent. Ref. No.	RN101609741
Facility/Site Region	10-Beaumont
Major/Minor Source	Major

CASE INFORMATION			
Enf./Case ID No.	40392	No. of Violations	1
Docket No.	2010-1501-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jordan Jones
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$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 **97.0%** Enhancement **Subtotals 2, 3, & 7** **\$4,850**

Notes: Enhancement for eight self-reported months of effluent violations, one NOV with same/similar violations, six NOVs with dissimilar violations, and two agreed orders with denial language.

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

Notes: The Respondent does not meet the culpability criteria.

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

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

Total EB Amounts	\$874
Approx. Cost of Compliance	\$10,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$9,850**

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

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$9,850**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$9,850**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$1,970**

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

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$7,880**

Screening Date 14-Sep-2010

Docket No. 2010-1501-MWD-E

PCW

Respondent City of Crockett

Policy Revision 2 (September 2002)

Case ID No. 40392

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101609741

Media [Statute] Water Quality

Enf. Coordinator Jordan Jones

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	9	45%
	Other written NOVs	6	12%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	2	40%
	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%

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) 97%

>> 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 self-reported months of effluent violations, one NOV with same/similar violations, six NOVs with dissimilar violations, and two agreed orders with denial language.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 97%

Screening Date 14-Sep-2010

Docket No. 2010-1501-MWD-E

PCW

Respondent City of Crockett

Policy Revision 2 (September 2002)

Case ID No. 40392

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101609741

Media [Statute] Water Quality

Enf. Coordinator Jordan Jones

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010154001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6

Violation Description Failed to comply with permitted effluent limits, as documented in a record review conducted on August 11, 2010. See attached Effluent Limit Violation 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. Dissolved oxygen was also considered. As a result of these discharges, human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective human health or environmental receptors.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

92 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$5,000

Two quarterly events are recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

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

Notes

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

Violation Subtotal \$5,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount #VALUE!

Violation Final Penalty Total #VALUE!

This violation Final Assessed Penalty (adjusted for limits) #VALUE!

Economic Benefit Worksheet

Respondent: City of Crockett
Case ID No.: 40392
Reg. Ent. Reference No.: RN101609741
Media: Water Quality
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$10,000	31-Oct-2009	31-Jul-2011	1.75	\$874	n/a	\$874
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and to make any necessary repairs/adjustments to the Facility. Date required is the initial date of noncompliance. Final date is the expected date of compliance.

Avoided Costs

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

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

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$874

Effluent Limit Violation Table

Respondent	City of Crockett
ID Number(s)	TPDES Permit No. WQ0010154001; Case No. 40392
Docket Number	2010-1501-MWD-E
Enf. Coordinator	Jordan Jones

Corresponds to Violation Number:

1

**EFFLUENT PARAMETER
Permit Limit**

EFFLUENT PARAMETER	Total Ammonia-Nitrogen Daily Avg. Conc.	Total Ammonia-Nitrogen Daily Max. Conc.	Total Ammonia-Nitrogen Daily Avg. Loading	Dissolved Oxygen Min.
Month/Year	Limit = 2 mg/L	Limit = 10 mg/L	Limit = 33 lbs/day	Limit = 5 mg/L
10/31/2009	c	c	c	4.2
5/31/2010	2.88	c	c	c
6/30/2010	9.49	13.4	71.6616	c
	Conc. = concentration		Avg. = average	
	Min. = minimum		mg/L = milligrams per liter	
	Max. = maximum		lbs/day = pounds per day	
	c = compliant			

5	01/09/2006	(474926)
6	02/21/2006	(474920)
7	03/24/2006	(474921)
8	04/17/2006	(474922)
9	05/30/2006	(502572)
10	06/08/2006	(502574)
11	06/19/2006	(502573)
12	07/12/2006	(483311)
13	08/01/2006	(489197)
14	08/16/2006	(524894)
15	09/18/2006	(549796)
16	10/30/2006	(549797)
17	11/20/2006	(549798)
18	12/18/2006	(549799)
19	01/03/2007	(549800)
20	02/16/2007	(549795)
21	02/22/2007	(539569)
22	03/09/2007	(543252)
23	03/14/2007	(584024)
24	03/16/2007	(531438)
25	03/22/2007	(593304)
26	04/17/2007	(584025)
27	05/07/2007	(584026)
28	06/18/2007	(584027)
29	06/21/2007	(584028)
30	08/14/2007	(604130)
31	09/18/2007	(604131)
32	10/10/2007	(604132)
33	11/07/2007	(623059)
34	12/17/2007	(623060)
35	01/15/2008	(623061)
36	02/21/2008	(674464)
37	03/20/2008	(674465)
38	04/18/2008	(674466)
39	05/15/2008	(692808)
40	05/28/2008	(646320)
41	06/16/2008	(692809)
42	07/24/2008	(692810)
43	08/18/2008	(699722)
44	08/21/2008	(713968)
45	09/10/2008	(713969)
46	10/10/2008	(713970)
47	11/19/2008	(729954)
48	12/15/2008	(729955)
49	12/16/2008	(706844)
50	01/22/2009	(729956)
51	02/23/2009	(753182)
52	03/17/2009	(753183)
53	04/07/2009	(759008)
54	04/17/2009	(753184)
55	05/20/2009	(770719)
56	06/12/2009	(770720)
57	06/18/2009	(748408)
58	08/07/2009	(811955)
59	09/21/2009	(811957)
60	09/28/2009	(811956)
61	10/07/2009	(811958)
62	11/12/2009	(811959)
63	11/17/2009	(782262)
64	12/14/2009	(811960)
65	01/07/2010	(811961)
66	02/22/2010	(811954)

67 03/23/2010 (833384)
 68 04/20/2010 (833385)
 69 05/17/2010 (833386)
 70 06/17/2010 (847053)
 71 07/20/2010 (861535)
 72 09/10/2010 (848795)

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

Date: 09/30/2005 (474923) CN600251870
 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 (474925) CN600251870
 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: 07/12/2006 (483311) CN600251870
 Self Report? NO Classification: Moderate
 Citation: OpR 1 PERMIT
 Description: Failure by the City of Crockett to employ an individual with a valid wastewater collection system operator license to oversee the wastewater collection system.
 Self Report? NO Classification: Minor
 Citation: OpR 1 PERMIT
 Description: Failure by the City of Crockett to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
 Self Report? NO Classification: Moderate
 Citation: OpR 1 PERMIT
 Description: Failure by the City of Crockett to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
 Self Report? NO Classification: Minor
 Citation: OpR 1 PERMIT
 Description: Failure by the City of Crockett to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
 Self Report? NO Classification: Moderate
 Citation: OpR 1 PERMIT
 Description: Failure by the City of Crockett to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
 Self Report? NO Classification: Minor
 Citation: OpR 1 PERMIT
 Description: Failure by the City of Crockett to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
 Self Report? NO Classification: Moderate
 Citation: OpR 1 PERMIT
 Description: Failure by the City of Crockett to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
 Self Report? NO Classification: Moderate
 Citation: OpR 1 PERMIT
 Description: Failure by the City of Crockett to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
 Self Report? NO Classification: Moderate
 Citation: OpR 1 PERMIT
 Description: Failure by the City of Crockett to properly manage the solids inventory within the wastewater treatment plant.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 335, SubChapter A 335.4
 Description: Failure by the City of Crockett to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
 Self Report? NO Classification: Moderate
 Citation: PC 2g PERMIT
 Description: Failure by the City of Crockett to prevent unauthorized discharges into or adjacent to the waters of the state.

Self Report?	NO	Classification:	Moderate
Citation:	EL&MR 1 and 3 PERMIT		
Description:	Failure by the City of Crockett to discharge effluent that is compliant with permitted limitations.		
Self Report?	NO	Classification:	Minor
Citation:	M&RR 3C PERMIT		
Description:	Failure by the City of Crockett to maintain a complete pH meter calibration log.		
Self Report?	NO	Classification:	Moderate
Citation:	OpR 1 PERMIT		
Description:	Failure by the City of Crockett to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Date	08/31/2006 (549796)	CN600251870	
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	09/30/2006 (549797)	CN600251870	
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	03/22/2007 (593304)	CN600251870	
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	04/30/2007 (584026)	CN600251870	
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	05/28/2008 (646320)	CN600251870	
Self Report?	NO	Classification:	Moderate
Citation:	OpR 1 PERMIT		
Description:	Failure by the City of Crockett to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classification:	Minor
Citation:	OpR 1 Pg. 9 PERMIT		
Description:	Failure by the City of Crockett to ensure that the collection system lift station is intruder resistant.		
Self Report?	NO	Classification:	Moderate
Citation:	OpR 1 Pg. 9 PERMIT		
Description:	Failure by the City of Crockett to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classification:	Moderate
Citation:	OpR 1 Pg. 9 PERMIT		
Description:	Failure by the City of Crockett to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classification:	Minor
Citation:	M&RR 4, Pg. 5 PERMIT		
Description:	Failure by the City of Crockett to include results of all pH sampling and analysis in the calculation and reporting on the submitted self-report form.		
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 305, SubChapter F 305.125(5) OpR 1, Pg. 9 PERMIT		
Description:	Failure by the City of Crockett to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classification:	Moderate
Citation:	OpR 1, Pg. 9 PERMIT		
Description:	Failure by the City of Crockett to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.		
Self Report?	NO	Classification:	Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.44(h)(1)(A)
 Description: Failure by the City of Crockett to have protection from an actual or potential contamination hazard to the public drinking water system.
 Date 03/12/2009 (737700) CN600251870
 Self Report? NO Classification: Moderate
 Citation: OT No. 1, Pg. 26 PERMIT
 Description: Failure to employ a chief operator with a license equal to or higher than the category of the treatment facility. North Plant
 Self Report? NO Classification: Moderate
 Citation: OT No. 1, Pg. 26 PERMIT
 Description: Failure to employ at least one licensed collection system operator who holds a license class equal to or greater than that category of system.
 Date 04/07/2009 (759006) CN600251870
 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
 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 06/16/2009 (748408) CN600251870
 Self Report? NO Classification: Minor
 Citation: OpR 1 Pg. 9 PERMIT
 Description: Failure by the City of Crockett to ensure that the collection system lift station is intruder resistant.
 Self Report? NO Classification: Moderate
 Citation: OpR 1, Pg. 9 PERMIT
 Description: Failure by the City of Crockett to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.
 Date 10/31/2009 (811959) CN600251870
 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 05/31/2010 (847053) CN600251870
 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 06/23/2010 (800587) CN600251870
 Self Report? NO Classification: Minor
 Citation: OpR 1 PERMIT
 Description: Failure by the City to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. C4, Minor 3D
 Self Report? NO Classification: Minor
 Citation: M&RR 3c PERMIT
 Description: Failure by the City to maintain complete records of monitoring activities.
 Self Report? NO Classification: Moderate
 Citation: OpR 3b PERMIT
 Description: Failure by the City to submit a closure plan for review and approval to the Municipal Permits Team, Wastewater Permits Section (MC148) of the Water Quality Division, of closure of the drying beds 90 days prior to their removal from service. B3, Moderate 2B
 Self Report? NO Classification: Minor
 Citation: OpR 1 PERMIT
 Description: Failure by the City to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. c4, Minor 3D
 Date 06/30/2010 (861535) CN600251870
 Self Report? YES Classification: Moderate
 Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
 30 TAC Chapter 305, SubChapter F 305.125(1)
 Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

K. Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF CROCKETT
RN101609741**

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

AGREED ORDER DOCKET NO. 2010-1501-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 Crockett ("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 system located on the west bank of Town Branch; approximately 2,000 feet north of the intersection of the Missouri-Pacific Railroad with State Loop 304 in Houston 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 September 15, 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 Nine Thousand Eight Hundred Fifty Dollars (\$9,850) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Nine Hundred Seventy Dollars (\$1,970) 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. Seven Thousand Eight Hundred Eighty Dollars (\$7,880) 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), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010154001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, as documented in a record review conducted on August 11, 2010 and shown in the table below.

EFFLUENT PARAMETER	Total Ammonia-Nitrogen Daily Avg. Conc.	Total Ammonia-Nitrogen Daily Max. Conc.	Total Ammonia-Nitrogen Daily Avg. Loading	Dissolved Oxygen Min.
Month/Year	Limit = 2 mg/L	Limit = 10 mg/L	Limit = 33 lbs/day	Limit = 5 mg/L
10/31/2009	c	c	c	4.2
5/31/2010	2.88	c	c	c
6/30/2010	9.49	13.4	71.6616	c
	Conc. = concentration		Avg. = average	
	Min. = minimum		mg/L = milligrams per liter	
	Max. = maximum		lbs/day = pounds per day	
	c = compliant			

III. DENIALS

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

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 Crockett, Docket No. 2010-1501-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, Seven Thousand Eight Hundred Eighty Dollars (\$7,880) 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 permitted effluent limitations of TPDES Permit No. WQ0010154001 including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

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

with a copy to:

Water Section, Manager
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

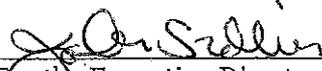
affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures 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



For the Executive Director

3/4/2011

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.



Signature

1/6/2011

Date

Wayne Mark

Name (Printed or typed)
Authorized Representative of
City of Crockett

Mayor

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: 2010-1501-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Crockett
Penalty Amount:	Seven Thousand Eight Hundred Eighty Dollars (\$7,880)
SEP Offset Amount:	Seven Thousand Eight Hundred Eighty Dollars (\$7,880)
Type of SEP:	Custom – <i>Erosion Control</i>
Location of SEP:	Houston County; Nueces and Trinity River Basins

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 perform an erosion control project (the “project”) in Town Branch Creek in Houston County, Texas, to reduce siltation in a seasonal tributary that flows into Hurricane Bayou and into the Trinity River. The project will consist of the installation R-Rap Walls (also known as Bag Walls) along Town Branch Creek to protect the slope and reduce or eliminate erosion along the creek bed. The initial R-Rap Wall will be installed along the creek bed beginning north of Pease Street (31 degs. 19’28.71”N 95 degs. 28’00.44”W) and will continue downstream to the entrance of the North Wastewater Treatment Plant (31 degs. 19’59.21”N 95 degs. 28’24.17”W), approximately 4,352 linear feet.

The Respondent shall perform the project in accordance with all federal, state, and local environmental laws and regulations. The Respondent agrees to obtain any and all required permit(s) prior to commencement of the project, including a **Nationwide Permit** from the U.S. Corps of Engineers; the **Marl, Sand, Gravel, Shell or Mudshell Permit** from the Texas Parks and Wildlife Department; and rights-of-way easement authorizations. The Respondent shall spend the SEP Offset Amount only for the direct cost of implementing the project. No portion of the SEP Offset Amount shall be spent on administrative costs.

The Respondent’s signature affixed to this Agreed Order certifies that there is no prior commitment to do the project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by stabilizing the Town Branch Creek bank thus preventing or significantly reducing further erosion, sedimentation, siltation, and pooling of stagnant water downstream. Continued erosion will lead to high sediment loads, silting, and disruption of ecosystems in downstream waterways. The project will benefit and protect the water quality of Town Branch Creek and the Nueces and Trinity River Basins.

C. Minimum Expenditure

The Respondent shall spend at least the SEP Offset Amount to complete the project and shall comply with all other provisions of this Attachment A. The Respondent understands that it may cost more than the

SEP Offset Amount to complete the project.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent shall begin implementation of the project, and shall complete the project in its entirety within 365 days after the effective date of this Agreed Order.

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 detailing the progress made on the project during the previous 60-day period and setting forth a schedule for achieving completion of the project within the time-frame required in Section 2, above. Thereafter, the Respondent shall submit progress reports to the TCEQ in the following increments and containing detailed information as set forth in the table below:

Table 1: Required Information

Days from Effective Order Date	Required Information
90	Actions taken during the previous 60-day period to implement the project
180	Actions taken during the previous 90-day period to implement the project, including copies of Rights-of-Way Easement Authorizations and of any and all permits obtained pursuant to Section 1.A., above
270	Actions taken during the previous 90-day period to implement the project, including photographs showing work completed to-date
365	Notice of project completion

B. Final Report

Within 60 days after completion of the project, and not later than 425 days after the effective date of the Agreed Order, the Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and total of costs incurred to complete the project;
2. Copies of invoices, paid receipts, and cleared checks corresponding to the itemized list required in paragraph 3.B.1., above;
3. Copies of verification documentation including Record Drawings;
4. Photographs of the completed project;
5. A map identifying the location of the work performed. The map must be of sufficient detail to allow TCEQ staff to verify the location of the completed project;
6. A certified/notarized statement of quantifiable environmental benefits produced by the project; and
7. Any information required in Section 3 and any additional information that will demonstrate

compliance with this SEP agreement.

C. Address

The Respondent shall submit all reports required and supporting documentation required by the SEP agreement and any requested additional information to the following address:

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

4. Additional Information and Access

The Respondent shall provide any additional information required by TCEQ staff and shall allow access to all records related to the receipt and expenditure of SEP Offset Amount. The Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by SEP Offset Amount. This provision shall survive 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 Sections 2 and 3 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount.

In the event the ED determines that the Respondent failed to complete the project, the Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and 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 check payable to "Texas Commission on Environmental Quality" and shall mail it to:

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

6. Publicity

Any public statements concerning this SEP and/or the project made by or on behalf of 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 but are not limited to 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.