

**Executive Summary – Enforcement Matter – Case No. 45812**

**City of Kingsville**

**RN101612976**

**Docket No. 2013-0223-MWD-E**

**Order Type:**

Findings Agreed Order

**Findings Order Justification:**

People or environmental receptors have been exposed to pollutants which exceed levels that are protective.

**Media:**

MWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

City of Kingsville 3.0 MGD Wastewater Treatment Plant, located at 2801 East Santa Gertrudis, approximately 2,640 feet east of U.S. Highway 77 on the south side of Farm-to-Market Road 2045, Kleberg County

**Type of Operation:**

Domestic wastewater treatment plant

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** August 2, 2013

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$10,318

**Amount Deferred for Expedited Settlement:** \$0

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$10,318

Name of SEP: Texas Association of Resource Conservation and Development Areas, Inc.

**Compliance History Classifications:**

Person/CN - Satisfactory

Site/RN - Satisfactory

**Major Source:** Yes and also a Minor

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002 and September 2011

**Executive Summary – Enforcement Matter – Case No. 45812**

**City of Kingsville**

**RN101612976**

**Docket No. 2013-0223-MWD-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** October 1 through October 9, 2012

**Date(s) of NOE(s):** December 6, 2012

***Violation Information***

1. Failed to prevent the unauthorized discharge of untreated wastewater from the collection system into or adjacent to water in the state [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(5), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010696001, Permit Conditions No. 2.g.].
2. Failed to timely submit total copper attainment progress reports on a quarterly basis [30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0010696001, Other Requirements No. 7].
3. Failed to correctly calculate the daily average bacteria concentration [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.5(f), and TPDES Permit No. WQ0010696001, Definitions and Standard Permit Conditions No. 2(e) and Monitoring and Reporting Requirements No. 2.a.].
4. Failed to submit a complete annual sludge report for the monitoring period ending July 31, 2012 [30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010696001, Sludge Provisions].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

Respondent has implemented the following:

- a. On October 1, 2012, used a jet-vac truck to remove the wastewater, properly disposed of the dead fish, and replaced the 80 foot section of damaged sewer main;
- b. On October 19, 2012, submitted documentation demonstrating that staff had been trained on calculating the geometric mean for daily average concentration of Enterococci bacteria;
- c. By October 22, 2012, submitted all missing total copper attainment progress reports and began submitting future reports on a quarterly basis; and
- d. On January 30, 2013, submitted a revised annual sludge report for the monitoring period ending July 31, 2012.

**Executive Summary – Enforcement Matter – Case No. 45812**  
**City of Kingsville**  
**RN101612976**  
**Docket No. 2013-0223-MWD-E**

**Technical Requirements:**

1. The Order will require Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)
2. The Order will also require Respondent to:
  - a. Within 30 days, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including submitting accurate and complete annual sludge reports and the quarterly total copper attainment progress reports; and
  - b. Within 45 days, submit written certification demonstrating compliance with Ordering Provision a.

***Litigation Information***

**Date Petition(s) Filed:** N/A  
**Date Answer(s) Filed:** N/A  
**SOAH Referral Date:** N/A  
**Hearing Date(s):** N/A  
**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A  
**TCEQ Enforcement Coordinator:** Nicholas Nevid, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-2612; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456  
**TCEQ SEP Coordinator:** Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565  
**Respondent:** The Honorable Al Garcia, Mayor Pro-Tem, City of Kingsville, P.O. Box 1458, Kingsville, Texas 78364  
The Honorable Sam Fugate, Mayor, City of Kingsville, P.O. Box 1458, Kingsville, Texas 78364  
**Respondent's Attorney:** N/A



**Attachment A**  
**Docket Number: 2013-0223-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** City of Kingsville

**Penalty Amount:** Ten Thousand Three Hundred Eighteen Dollars (\$10,318)

**SEP Amount:** Ten Thousand Three Hundred Eighteen Dollars (\$10,318)

**Type of SEP:** Contribution to a Third-Party Pre-Approved SEP

**Third-Party Recipient:** Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D") - Water or Wastewater Treatment Assistance

**Location of SEP:** Kleberg County; Nueces and Rio Grande River Basins; Gulf Coast Aquifer

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

**1. Project Description**

a. Project

Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of RC&D to be used for the Water or Wastewater Treatment Assistance Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project.

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

b. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems.

c. Minimum Expenditure

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

**2. Performance Schedule**

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

Texas Association of Resource Conservation and Development Areas, Inc.  
Attention: Ken Awtrey  
P.O. Box 635067  
Nacogdoches, Texas 75961

**3. Records and Reporting**

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

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

**4. Failure to Fully Perform**

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

City of Kingsville  
Agreed Order - Attachment A

amount.

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

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

**5. Publicity**

Any public statements concerning this SEP 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 advertising, public relations, and press releases.

**6. Clean Texas Program**

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

**7. Other SEPs by TCEQ or Other Agencies**

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





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

<b>DATES</b>	<b>Assigned</b>	10-Dec-2012	<b>Screening</b>	12-Dec-2012	<b>EPA Due</b>	
	<b>PCW</b>	16-May-2013				

## RESPONDENT/FACILITY INFORMATION

<b>Respondent</b>	City of Kingsville				
<b>Reg. Ent. Ref. No.</b>	RN101612976				
<b>Facility/Site Region</b>	14-Corpus Christi	<b>Major/Minor Source</b>	Major		

## CASE INFORMATION

<b>Enf./Case ID No.</b>	45812	<b>No. of Violations</b>	1
<b>Docket No.</b>	2013-0223-MWD-E	<b>Order Type</b>	Findings
<b>Media Program(s)</b>	Water Quality	<b>Government/Non-Profit</b>	Yes
<b>Multi-Media</b>		<b>Enf. Coordinator</b>	Nicholas Nevid
		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$10,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	\$400
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	27.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	\$108
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Notes

Enhancement for one month of self-reported effluent violations and one order without denial of liability.

<b>Culpability</b>	No	0.0% Enhancement	<b>Subtotal 4</b>	\$0
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Notes

The Respondent does not meet the culpability criteria.

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	\$0
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	\$0
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Total EB Amounts	\$41
Approx. Cost of Compliance	\$400

\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	\$508
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

<b>Final Penalty Amount</b>	\$508
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	\$508
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<b>DEFERRAL</b>	0.0%	Reduction	<b>Adjustment</b>	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	\$508
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**Screening Date** 12-Dec-2012

**Docket No.** 2013-0223-MWD-E

**PCW**

**Respondent** City of Kingsville

Policy Revision 2 (September 2002)

**Case ID No.** 45812

PCW Revision October 30, 2008

**Reg. Ent. Reference No.** RN101612976

**Media [Statute]** Water Quality

**Enf. Coordinator** Nicholas Nevid

### Compliance History Worksheet

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%

Please Enter Yes or No

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

**Adjustment Percentage (Subtotal 2)** 27%

**>> Repeat Violator (Subtotal 3)**

No

**Adjustment Percentage (Subtotal 3)** 0%

**>> Compliance History Person Classification (Subtotal 7)**

Satisfactory Performer

**Adjustment Percentage (Subtotal 7)** 0%

**>> Compliance History Summary**

**Compliance History Notes**

Enhancement for one month of self-reported effluent violations and one order without denial of liability.

**Total Adjustment Percentage (Subtotals 2, 3, & 7)** 27%

Screening Date 12-Dec-2012

Docket No. 2013-0223-MWD-E

PCW

Respondent City of Kingsville

Policy Revision 2 (September 2002)

Case ID No. 45812

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101612976

Media [Statute] Water Quality

Enf. Coordinator Nicholas Nevid

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and TPDES Permit No. WQ0010696001, Other Requirements No. 7

Violation Description Failed to timely submit the total copper attainment progress reports on a quarterly basis to the TCEQ Corpus Christi regional office and the TCEQ Enforcement Division for the period October 2010 through July 2011.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm			Percent
	Major	Moderate	Minor	
Actual				0%
Potential				

>> Programmatic Matrix

Falsification	Harm			Percent
	Major	Moderate	Minor	
			x	1%

Matrix Notes Less than 30% of the rule requirement was not met.

Adjustment \$9,900

\$100

Violation Events

Number of Violation Events 4 Number of violation days 273

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

Violation Base Penalty \$400

Four single events are recommended, one for each report not submitted.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Reduction	
	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 \$400

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$41

Violation Final Penalty Total \$508

This violation Final Assessed Penalty (adjusted for limits) \$508

## Economic Benefit Worksheet

**Respondent** City of Kingsville  
**Case ID No.** 45812  
**Reg. Ent. Reference No.** RN101612976  
**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
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No commas or \$

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$400	1-Oct-2010	22-Oct-2012	2.06	\$41	n/a	\$41

#### Notes for DELAYED costs

Estimated cost (\$100 per report) to prepare and submit the total copper attainment quarterly progress reports. Date required is the date the first report was due, and the final date is the date the reports were submitted. See economic benefit for violation no. 3 of the accompanying PCW for training requirement.

### 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

\$400

**TOTAL**

\$41



# Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

**TCEQ**

<b>DATES</b>	<b>Assigned</b>	10-Dec-2012	<b>Screening</b>	12-Dec-2012	<b>EPA Due</b>	
	<b>PCW</b>	12-Dec-2012				

<b>RESPONDENT/FACILITY INFORMATION</b>	
<b>Respondent</b>	City of Kingsville
<b>Reg. Ent. Ref. No.</b>	RN101612976
<b>Facility/Site Region</b>	14-Corpus Christi
<b>Major/Minor Source</b>	Minor

<b>CASE INFORMATION</b>		<b>No. of Violations</b>	1
<b>Enf./Case ID No.</b>	45812	<b>Order Type</b>	Findings
<b>Docket No.</b>	2013-0223-MWD-E	<b>Government/Non-Profit</b>	Yes
<b>Media Program(s)</b>	Water Quality	<b>Enf. Coordinator</b>	Nicholas Nevid
<b>Multi-Media</b>		<b>EC's Team</b>	Enforcement Team 3
<b>Admin. Penalty \$ Limit Minimum</b>	\$0	<b>Maximum</b>	\$25,000

## Penalty Calculation Section

<b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>	<b>Subtotal 1</b>	<b>\$7,500</b>
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### ADJUSTMENTS (+/-) TO SUBTOTAL 1

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

<b>Compliance History</b>	27.0% Enhancement	<b>Subtotals 2, 3, &amp; 7</b>	<b>\$2,025</b>
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Notes: Enhancement for one month of self-reported effluent violations and one order without denial of liability.

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

<b>Good Faith Effort to Comply Total Adjustments</b>	<b>Subtotal 5</b>	<b>\$1,875</b>
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<b>Economic Benefit</b>	0.0% Enhancement*	<b>Subtotal 6</b>	<b>\$0</b>
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Total EB Amounts \$0  
Approx. Cost of Compliance \$12,000  
\*Capped at the Total EB \$ Amount

<b>SUM OF SUBTOTALS 1-7</b>	<b>Final Subtotal</b>	<b>\$7,650</b>
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<b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>	0.0%	<b>Adjustment</b>	<b>\$0</b>
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

<b>Final Penalty Amount</b>	<b>\$7,650</b>
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<b>STATUTORY LIMIT ADJUSTMENT</b>	<b>Final Assessed Penalty</b>	<b>\$7,650</b>
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<b>DEFERRAL</b>	0.0% Reduction	<b>Adjustment</b>	<b>\$0</b>
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

<b>PAYABLE PENALTY</b>	<b>\$7,650</b>
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**Screening Date** 12-Dec-2012

**Docket No.** 2013-0223-MWD-E

**PCW**

**Respondent** City of Kingsville

Policy Revision 3 (September 2011)

**Case ID No.** 45812

PCW Revision August 3, 2011

**Reg. Ent. Reference No.** RN101612976

**Media [Statute]** Water Quality

**Enf. Coordinator** Nicholas Nevid

**Compliance History Worksheet**

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

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	1	25%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government ( <i>number of counts</i> )	0	0%
Emissions	Chronic excessive emissions events ( <i>number of events</i> )	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

**Adjustment Percentage (Subtotal 2)** 27%

>> **Repeat Violator (Subtotal 3)**

No

**Adjustment Percentage (Subtotal 3)** 0%

>> **Compliance History Person Classification (Subtotal 7)**

Satisfactory Performer

**Adjustment Percentage (Subtotal 7)** 0%

>> **Compliance History Summary**

**Compliance History Notes**

Enhancement for one month of self-reported effluent violations and one order without denial of liability.

**Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7)** 27%

>> **Final Compliance History Adjustment**

**Final Adjustment Percentage \*capped at 100%** 27%

Screening Date 12-Dec-2012

Docket No. 2013-0223-MWD-E

PCW

Respondent City of Kingsville

Policy Revision 3 (September 2011)

Case ID No. 45812

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101612976

Media [Statute] Water Quality

Enf. Coordinator Nicholas Nevid

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(5), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010696001, Permit Conditions No. 2.g.

Violation Description Failed to prevent the discharge of untreated wastewater from the collection system into or adjacent to water in the state. Specifically, on October 1, 2012, an unauthorized discharge of untreated wastewater caused by a broken sewer collection line at the intersection of Lee Street and 17th Street killed approximately 33 fish in Tranquitas Creek.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual	X		
Potential			

Percent 30.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to pollutants which exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$17,500

\$7,500

Violation Events

Number of Violation Events 1

1 Number of violation days

daily	X
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$7,500

One daily event is recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$1,875

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

Notes

The Respondent achieved compliance on October 1, 2012.

Violation Subtotal \$5,625

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$7,650

This violation Final Assessed Penalty (adjusted for limits) \$7,650

## Economic Benefit Worksheet

**Respondent** City of Kingsville  
**Case ID No.** 45812  
**Reg. Ent. Reference No.** RN101612976  
**Media** Water Quality  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

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

### Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$12,000	1-Oct-2012	1-Oct-2012	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**

Cost provided by the Respondent to use a jet-vac truck to remove the discharge, properly dispose of the dead fish, and replace the 80 foot section of damaged sewer main. The date required is the date of the unauthorized discharge. The final date is the date the discharge clean-up and sewer main replacement were completed.

### 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

\$12,000

**TOTAL**

\$0

The TCEQ is committed to accessibility.  
To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



## TCEQ Compliance History Report

**PUBLISHED** Compliance History Report for CN600674246, RN101612976, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

**Customer, Respondent, or Owner/Operator:** CN600674246, City of Kingsville **Classification:** SATISFACTORY **Rating:** 38.63  
**Regulated Entity:** RN101612976, CITY OF KINGSVILLE 3.0 MGD WASTEWATER TREATMENT PLANT **Classification:** SATISFACTORY **Rating:** 15.64  
**Complexity Points:** 5 **Repeat Violator:** NO  
**CH Group:** 08 - Sewage Treatment Facilities  
**Location:** Located at 2801 East Santa Gertrudis, approximately 2,640 feet east of United States Highway 77 on the south side of Farm-to-Market Road 2045 in Kleberg County, Texas  
**TCEQ Region:** REGION 14 - CORPUS CHRISTI

**ID Number(s):**

**WASTEWATER PERMIT** WQ0010696001

**WASTEWATER EPA ID** TX0023418

**WASTEWATER LICENSING LICENSE** WQ0010696001

**Compliance History Period:** September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

**Date Compliance History Report Prepared:** January 29, 2013

**Agency Decision Requiring Compliance History:** Enforcement

**Component Period Selected:** December 12, 2008 to December 12, 2012

**TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.**

**Name:** Jeremy Escobar

**Phone:** (361) 825-3422

**Site and Owner/Operator History:**

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If YES, when did the change(s) in owner or operator occur? N/A

**Components (Multimedia) for the Site Are Listed in Sections A - J**

**A. Final Orders, court judgments, and consent decrees:**

- 1 Effective Date: 08/13/2011 ADMINORDER 2011-0123-MWD-E (Findings Order-Agreed Order Without Denial)  
Classification: Major  
Citation: TWC Chapter 26 26.121  
Rqmt Prov:Permit Conditions 2.g.(pg 7) PERMIT  
Description: Failure to prevent unauthorized discharge of wastewater or any other waste.  
Classification: Moderate  
Citation: 2D TWC Chapter 26, SubChapter A 26.039(b)  
Rqmt Prov:Monitoring and Reporting 7.b.i.(pg 5) PERMIT  
Description: Failure to submit the noncompliance notification within 24 hours after the discharge occurred.

**B. Criminal convictions:**

N/A

**C. Chronic excessive emissions events:**

N/A

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

Item 1	December 26, 2007	(806404)
Item 2	January 22, 2008	(806406)
Item 3	February 08, 2008	(611318)
Item 4	February 13, 2008	(806381)
Item 5	March 12, 2008	(806384)
Item 6	April 16, 2008	(806386)
Item 7	May 15, 2008	(806388)
Item 8	June 13, 2008	(806390)
Item 9	July 16, 2008	(806392)
Item 10	August 18, 2008	(806394)
Item 11	September 18, 2008	(806398)
Item 12	October 16, 2008	(806400)
Item 13	November 19, 2008	(806403)
Item 14	December 17, 2008	(806405)
Item 15	January 20, 2009	(806407)
Item 16	February 23, 2009	(806382)
Item 17	March 23, 2009	(806383)
Item 18	April 24, 2009	(806387)
Item 19	May 21, 2009	(806389)
Item 20	June 19, 2009	(806391)
Item 21	July 22, 2009	(806393)
Item 22	August 24, 2009	(806395)
Item 23	October 26, 2009	(806401)
Item 24	June 01, 2010	(831490)
Item 25	June 14, 2010	(831492)
Item 26	June 21, 2010	(925407)
Item 27	July 22, 2010	(925408)
Item 28	September 22, 2010	(874103)
Item 29	December 22, 2010	(896478)
Item 30	January 05, 2011	(896477)
Item 31	January 24, 2011	(909292)
Item 32	February 22, 2011	(909291)
Item 33	March 21, 2011	(916550)
Item 34	May 17, 2011	(938233)
Item 35	June 17, 2011	(945608)
Item 36	August 15, 2011	(965552)
Item 37	October 04, 2011	(958220)
Item 38	November 21, 2011	(977758)
Item 39	January 26, 2012	(990812)
Item 40	March 22, 2012	(1003703)
Item 41	April 23, 2012	(1010270)
Item 42	May 21, 2012	(1016660)
Item 43	June 15, 2012	(1024396)
Item 44	June 18, 2012	(1031777)
Item 45	August 22, 2012	(1038146)
Item 46	September 26, 2012	(1046897)

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

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	01/31/2012 (998183)	CN600674246
	Self Report?	YES	Classification: Moderate
	Citation:	2D TWC Chapter 26, SubChapter A 26.121(a) 30 TAC Chapter 305, SubChapter F 305.125(1)	
	Description:	Failure to meet the limit for one or more permit parameter	

**F. Environmental audits:**

N/A

**G. Type of environmental management systems (EMSs):**

N/A

**H. Voluntary on-site compliance assessment dates:**

N/A

**I. Participation in a voluntary pollution reduction program:**

N/A

**J. Early compliance:**

N/A

**Sites Outside of Texas:**

N/A



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF KINGSVILLE  
RN101612976**

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

**AGREED ORDER  
DOCKET NO. 2013-0223-MWD-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Kingsville ("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 presented this agreement to the Commission.

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

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

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

**I. FINDINGS OF FACT**

1. The Respondent owns and operates a domestic wastewater treatment plant located at 2801 East Santa Gertrudis, approximately 2,640 feet east of United States Highway 77 on the south side of Farm-to-Market Road 2045 in Kleberg 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. During an investigation conducted on October 1, 2012, TCEQ staff documented an unauthorized discharge of untreated wastewater caused by a broken sewer collection line at the intersection of Lee Street and 17th Street that killed approximately 33 fish in Tranquitas Creek.
4. During an investigation conducted on October 1 through October 9, 2012, TCEQ staff documented that the Respondent was not submitting the total copper attainment progress reports on a quarterly basis to the TCEQ Corpus Christi regional office and the TCEQ Enforcement Division for the period October 2010 through October 2012.
5. During an investigation conducted on October 1 through October 9, 2012, TCEQ staff documented that the Respondent was using the arithmetic average rather than geometric mean for the bacteria calculation for the daily average concentration of Enterococci bacteria.
6. During an investigation conducted on October 1 through October 9, 2012, TCEQ staff documented that the annual sludge report submitted by the Respondent for the monitoring period ending July 31, 2012 did not include the following required information: identity of sludge hauler and identification number, owner of disposal site, location of disposal site, and dates of disposal.
7. The Respondent received notice of the violations on December 11, 2012.
8. The Executive Director recognizes that the Respondent has implemented the following:
  - a. On October 1, 2012, used a jet-vac truck to remove the wastewater, properly disposed of the dead fish, and replaced the 80 foot section of damaged sewer main;
  - b. On October 19, 2012, submitted documentation demonstrating that staff had been trained on calculating the geometric mean for daily average concentration of Enterococci bacteria;
  - c. By October 22, 2012, submitted all missing total copper attainment progress reports and began submitting future reports on a quarterly basis; and
  - d. On January 30, 2013, submitted a revised annual sludge report for the monitoring period ending July 31, 2012.

## II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.

2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent the unauthorized discharge of untreated wastewater from the collection system into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(5), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0010696001, Permit Conditions No. 2.g.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to timely submit total copper attainment progress reports on a quarterly basis, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and TPDES Permit No. WQ0010696001, Other Requirements No. 7.
4. As evidenced by Findings of Fact No. 5, the Respondent failed to correctly calculate the daily average bacteria concentration, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.5(f), and TPDES Permit No. WQ0010696001, Definitions and Standard Permit Conditions No. 2(e) and Monitoring and Reporting Requirements No. 2.a.
5. As evidenced by Findings of Fact No. 6, the Respondent failed to submit a complete annual sludge report for the monitoring period ending July 31, 2012, in violation of 30 TEX. ADMIN. CODE § 305.125(1), and TPDES Permit No. WQ0010696001, Sludge Provisions.
6. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of Ten Thousand Three Hundred Eighteen Dollars (\$10,318) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. Ten Thousand Three Hundred Eighteen Dollars (\$10,318) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").

### III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Ten Thousand Three Hundred Eighteen Dollars (\$10,318) as set forth in Section II, Paragraph 7 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Kingsville, Docket No. 2013-0223-MWD-E" to:

Financial Administration Division, Revenue Operations 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 II, Paragraph 7 above, Ten Thousand Three Hundred Eighteen Dollars (\$10,318) 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. The Respondent shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that self-reporting requirements are properly accomplished, including submitting accurate and complete annual sludge reports and the quarterly total copper attainment progress reports; and
  - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 3.a. 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  
Corpus Christi Regional Office  
Texas Commission on Environmental Quality  
6300 Ocean Drive, Suite 1200  
Corpus Christi, Texas 78412-5503

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. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
8. 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.
9. 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.
10. 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.

11. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
For the Executive Director

9/18/13  
Date

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

I understand that by entering into this Agreed Order, the City of Kingsville waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

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

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

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

  
Signature

06/12/2013  
Date

AL GARCIA  
Name (Printed or typed)  
Authorized Representative of  
City of Kingsville

Mayor Pro Tem  
Title

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



**Attachment A**  
**Docket Number: 2013-0223-MWD-E**

**SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Respondent:** City of Kingsville

**Penalty Amount:** Ten Thousand Three Hundred Eighteen Dollars (\$10,318)

**SEP Amount:** Ten Thousand Three Hundred Eighteen Dollars (\$10,318)

**Type of SEP:** Contribution to a Third-Party Pre-Approved SEP

**Third-Party Recipient:** Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D") - Water or Wastewater Treatment Assistance

**Location of SEP:** Kleberg County; Nueces and Rio Grande River Basins; Gulf Coast Aquifer

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

**1. Project Description**

a. Project

Respondent shall contribute the SEP offset amount to the Third-Party Recipient named above. The contribution will be to Texas Association of RC&D to be used for the Water or Wastewater Treatment Assistance Program as set forth in an agreement between the Third-Party Recipient and the TCEQ. Specifically, the contribution will be used to provide low income rural homeowners with assistance to enable the repair or replacement of their failing on-site wastewater systems. SEP monies will be used to pay for the labor and materials costs related to repairing or replacing the failing systems. The recipients will not be charged for the cost of replacing or repairing the failing systems. If RC&D is unable to spend the total SEP Offset Amount on this project, upon approval of the Executive Director, the remaining SEP Offset Amount may be applied to another approved RC&D project.

City of Kingsville  
Agreed Order - Attachment A

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

b. Environmental Benefit

This SEP will provide a discernible environmental benefit by protecting water sources for drinking, recreation, and wildlife from contamination from failing treatment systems.

c. Minimum Expenditure

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

**2. Performance Schedule**

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

Texas Association of Resource Conservation and Development Areas, Inc.  
Attention: Ken Awtrey  
P.O. Box 635067  
Nacogdoches, Texas 75961

**3. Records and Reporting**

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

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

**4. Failure to Fully Perform**

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

City of Kingsville  
Agreed Order - Attachment A

amount.

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

Litigation Division  
Attention: SEP Coordinator, MC 175  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

**5. Publicity**

Any public statements concerning this SEP 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 advertising, public relations, and press releases.

**6. Clean Texas Program**

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

**7. Other SEPs by TCEQ or Other Agencies**

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