

Executive Summary – Enforcement Matter – Case No. 44416

City of Hereford

RN101612570

Docket No. 2012-1275-MWD-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

No

Location(s) Where Violation(s) Occurred:

City of Hereford Wastewater Treatment Plant, Approximately two miles northeast of the intersection of United States Highway 60 and Farm-to-Market Road 2943 and 0.5 miles east of the intersection of United States Highway 60 and County Road 8, Hereford, Deaf Smith County

Type of Operation:

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: January 11, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$10,499

Amount Deferred for Expedited Settlement: \$2,099

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: \$8,400

Name of SEP: Texas Association of Resource Conservation and Development Areas, Inc. ("RC&D") – Abandoned Tire Clean-Up

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

Executive Summary – Enforcement Matter – Case No. 44416
City of Hereford
RN101612570
Docket No. 2012-1275-MWD-E

Investigation Information

Complaint Date(s): N/A
Complaint Information: N/A
Date(s) of Investigation: May 21, 2012
Date(s) of NOE(s): June 14, 2012

Violation Information

1. Failed to comply with permitted effluent limitations for biochemical oxygen demand [Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Permit No. WQ0010186002, Effluent Limitations and Monitoring Requirements No. A].
2. Failed to report any effluent violation which deviates from the permitted limitation by more than 40% in writing to the Amarillo Regional Office and the Enforcement Division within five working days of becoming aware of the noncompliance events for the months of May, June, August and October 2011, and April 2012 [30 Tex. Admin. Code § 305.125(1) and (9)(A) and Permit No. WQ0010186002, Monitoring and Reporting Requirements No. 7.c.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

1. Respondent shall implement and complete a SEP.
2. The Order will require Respondent to:
 - a. Within 30 days after the effective date of this Agreed Order, submit the noncompliance notifications for the effluent violations which deviated from the permitted limitation by more than 40% for the months of May, June, August and October 2011 and April 2012;
 - b. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that all reporting procedures are properly accomplished, including reports for effluent violations which deviate by more than 40% from the permitted limit; and
 - c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A

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City of Hereford
RN101612570
Docket No. 2012-1275-MWD-E

SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Jill Russell, Enforcement Division, Enforcement Team 3, MC 169, (512)239-4564; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: Stuart Beckley, SEP Coordinator, Enforcement Division, MC 219, (512) 239-3565
Respondent: Rick Hanna, City Manager, City of Hereford, Post Office Box 2277, Hereford, Texas 79045
Respondent's Attorney: N/A

Attachment A
Docket Number: 2012-1275-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Hereford
Payable Penalty Amount:	Eight Thousand Four Hundred Dollars (\$8,400)
SEP Amount:	Eight Thousand Four Hundred Dollars (\$8,400)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. (“RC&D”) - Abandoned Tire Clean-Up
Location of SEP:	Deaf Smith County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of 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 Resource Conservation and Development Areas, Inc.** to be used for the *Abandoned Tire Cleanups Program* as set forth in an agreement between the Third-Party Recipient and TCEQ. The Third-Party Recipient shall coordinate with local city and county government officials and private entities to clean up sites where tires have been disposed of illegally, or to conduct tire collection events where residents will be able to drop off tires for proper disposal or recycling. Eligible tire cleanup sites will be limited to areas where a responsible party cannot be identified or where there is no preexisting obligation to clean up the site by the owner or government and where reasonable efforts have been made to prevent the dumping. The SEP Offset Amount will be used for the direct cost of collection and disposal of tires and debris. 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. The SEP will be administered in accordance with federal, state, and local environmental laws and regulations.

Respondent certifies that there is no prior commitment to make this contribution 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 providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

c. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient named above 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 amount.

City of Hereford
Agreed Order - Attachment A

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

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

5. Publicity

Any public statements concerning this SEP made by or on behalf of 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

ICEQ DATES	Assigned	18-Jun-2012	Screening	26-Jun-2012	EPA Due	
	PCW	20-Nov-2012				

RESPONDENT/FACILITY INFORMATION			
Respondent	City of Hereford		
Reg. Ent. Ref. No.	RN101612570		
Facility/Site Region	1-Amarillo	Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	44416	No. of Violations	2
Docket No.	2012-1275-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jill Russell
		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	\$8,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1			
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>			
Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7	\$400

Notes: Enhancement for one NOV with same/similar violations.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts	\$916
Approx. Cost of Compliance	\$10,400

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$8,400
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OTHER FACTORS AS JUSTICE MAY REQUIRE	-37.5%	Adjustment	-\$3,150
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended reduction so that the penalty associated with violation no. 2 for reporting requirement does not overly impact the total assessed penalty.

Final Penalty Amount	\$5,250
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,250
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,050
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Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$4,200
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Screening Date 26-Jun-2012

Docket No. 2012-1275-MWD-E

PCW

Respondent City of Hereford

Policy Revision 2 (September 2002)

Case ID No. 44416

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101612570

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

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>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> **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 one NOV with same/similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 26-Jun-2012

Docket No. 2012-1275-MWD-E

PCW

Respondent City of Hereford

Policy Revision 2 (September 2002)

Case ID No. 44416

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101612570

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Permit No. WQ0010186002, Effluent Limitations and Monitoring Requirements No. A

Violation Description Failed to comply with permitted effluent limitations, as documented during an investigation conducted on May 21, 2012, and shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

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

>> Programmatic Matrix

	Major	Moderate	Minor	Percent
Falsification				0%

Matrix Notes Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2 123 Number of violation days

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

Violation Base Penalty \$2,000

Two quarterly events are recommended for the quarters containing the months of May, June, July and August 2011.

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 \$2,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$896

Violation Final Penalty Total \$1,313

This violation Final Assessed Penalty (adjusted for limits) \$1,313

Economic Benefit Worksheet

Respondent City of Hereford
Case ID No. 44416
Reg. Ent. Reference No. RN101612570
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

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

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$10,000	31-May-2011	15-Mar-2013	1.79	\$896	n/a	\$896

Notes for DELAYED costs

Estimated cost to determine the cause of noncompliance and take necessary corrective actions to maintain compliance with permitted effluent limits. Date Required is the first month of noncompliance. The Final Date is the expected date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$896

Screening Date 26-Jun-2012
Respondent City of Hereford
Case ID No. 44416
Reg. Ent. Reference No. RN101612570
Media [Statute] Water Quality
Enf. Coordinator Jill Russell

Docket No. 2012-1275-MWD-E

PCW

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

Violation Number
Rule Cite(s) 30 Tex. Admin. Code § 305.125(1) and (9)(A) and Permit No. WQ0010186002, Monitoring and Reporting Requirements No. 7.c
Violation Description Failed to report any effluent violation which deviates from the permitted limitation by more than 40% in writing to the Amarillo Regional Office and the Enforcement Division within five working days of becoming aware of the noncompliance events during the months of May, June and August 2011.

Base Penalty

>> Environmental, Property and Human Health Matrix

Release	Harm			Percent
	Major	Moderate	Minor	
Actual	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="0%"/>
Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>	

>> Programmatic Matrix

Falsification	Major	Moderate	Minor	Percent
<input type="text"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="text" value="10%"/>

Matrix Notes 100% of the rule requirement was not met.

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

daily	<input type="text"/>
weekly	<input type="text"/>
monthly	<input type="text"/>
quarterly	<input type="text"/>
semiannual	<input type="text"/>
annual	<input type="text"/>
single event	<input checked="" type="checkbox"/>

Violation Base Penalty

Six single events are recommended (one event for each notification).

Good Faith Efforts to Comply

Reduction

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	<input checked="" type="checkbox"/>	(mark with x)

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

Violation Subtotal

Economic Benefit (EB) for this violation

Estimated EB Amount

Statutory Limit Test

Violation Final Penalty Total

This violation Final Assessed Penalty (adjusted for limits)

Economic Benefit Worksheet

Respondent City of Hereford
Case ID No. 44416
Reg. Ent. Reference No. RN101612570
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

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

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	\$250	21-May-2012	14-Jan-2013	0.65	\$8	n/a	\$8
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$150	20-May-2011	14-Jan-2013	1.66	\$12	n/a	\$12

Notes for DELAYED costs

The estimated cost for updating operational guidance and training of personnel so that all reporting procedures are properly accomplished, including procedures to ensure that written reports for effluent violations which deviate by more than 40% from the permitted limit are properly submitted to TCEQ. Date Required is the date of the investigation, and Final Date is the expected date of compliance.

Estimated costs to prepare and submit the noncompliance notifications (\$25 per notification). Date required is the date that the first noncompliance notification was due. The Final Date is the expected date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$400

TOTAL

\$21



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	18-Jun-2012	Screening	26-Jun-2012	EPA Due	
	PCW	20-Nov-2012				

RESPONDENT/FACILITY INFORMATION	
Respondent	City of Hereford
Reg. Ent. Ref. No.	RN101612570
Facility/Site Region	1-Amarillo
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	44416	No. of Violations	2
Docket No.	2012-1275-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jill Russell
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$8,750
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ADJUSTMENTS (+/-) TO SUBTOTAL 1		
<small>Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.</small>		
Compliance History	5.0% Enhancement	Subtotals 2, 3, & 7
		\$437

Notes: Enhancement for one NOV with same/similar violations.

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

Good Faith Effort to Comply Total Adjustments	Subtotal 5	\$0
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Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
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Total EB Amounts: \$8
 Approx. Cost of Compliance: \$125
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7	Final Subtotal	\$9,187
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OTHER FACTORS AS JUSTICE MAY REQUIRE	-42.9%	Adjustment	-\$3,938
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended reduction so that the penalty associated with violation no. 2 for reporting requirement does not overly impact the total assessed penalty.

Final Penalty Amount	\$5,249
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,249
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DEFERRAL	20.0% Reduction	Adjustment	-\$1,049
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY	\$4,200
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Screening Date 26-Jun-2012

Docket No. 2012-1275-MWD-E

PCW

Respondent City of Hereford

Policy Revision 3 (September 2011)

Case ID No. 44416

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101612570

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

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>)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> 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 one NOV with same/similar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 5%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 5%

Screening Date 26-Jun-2012

Docket No. 2012-1275-MWD-E

PCW

Respondent City of Hereford

Policy Revision 3 (September 2011)

Case ID No. 44416

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101612570

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Permit No. WQ0010186002, Effluent Limitations and Monitoring Requirements No. A

Violation Description Failed to comply with permitted effluent limitations, as documented during an investigation conducted on May 21, 2012, and shown in the attached table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR	Release	Harm			Percent
		Major	Moderate	Minor	
	Actual			X	5.0%
	Potential				

>> Programmatic Matrix

Matrix Notes	Falsification	Major	Moderate	Minor	Percent

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels protective of human health or environmental receptors.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 2 161 Number of violation days

daily	
weekly	
monthly	
quarterly	X
semiannual	
annual	
single event	

mark only one with an x

Violation Base Penalty \$2,500

Two quarterly events are recommended for the quarters containing the months of September, October and November 2011 and April 2012.

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 \$2,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$0

Violation Final Penalty Total \$1,500

This violation Final Assessed Penalty (adjusted for limits) \$1,500

Economic Benefit Worksheet

Respondent City of Hereford
Case ID No. 44416
Reg. Ent. Reference No. RN101612570
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

See economic benefit violation No. 1 in PCW Revision 2.

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

\$0

TOTAL

\$0

Screening Date 26-Jun-2012

Docket No. 2012-1275-MWD-E

PCW

Respondent City of Hereford

Policy Revision 3 (September 2011)

Case ID No. 44416

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN101612570

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1) and (9)(A) and Permit No. WQ0010186002, Monitoring and Reporting Requirements No. 7.c

Violation Description

Failed to report any effluent violation which deviates from the permitted limitation by more than 40% in writing to the Amarillo Regional Office and the Enforcement Division within five working days of becoming aware of the noncompliance events during the months of October 2011 and April 2012.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Harm		
	Major	Moderate	Minor
	X		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 5

249 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$6,250

Five single events are recommended (one event for each notification).

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 \$6,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$8

Violation Final Penalty Total \$3,749

This violation Final Assessed Penalty (adjusted for limits) \$3,749

Economic Benefit Worksheet

Respondent City of Hereford
Case ID No. 44416
Reg. Ent. Reference No. RN101612570
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

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)	\$125	21-Oct-2011	14-Jan-2013	1.24	\$8	n/a	\$8

Notes for DELAYED costs

Estimated costs to prepare and submit the noncompliance notifications (\$25 per notification). See economic benefit for Violation No. 2 in PCW Revision 2 for updating operational guidance and training of personnel. Date required is the date that the first noncompliance notification was due. Final Date is the expected date of compliance.

Avoided Costs

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

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$125

TOTAL

\$8

Effluent Violations Table					
City of Hereford					
RN101612570; Docket 2012-1275-MWD-E					
Permit No. WQ0010186002					
Month/Year	Biochemical Oxygen Demand (5-Day) SG Limit = 100 mg/L				
	Week 1	Week 2	Week 3	Week 4	Week 5
May 2011	c	193*	190*	c	155*
June 2011	106	149*	150*	c	N/A
July 2011	103	c	c	c	N/A
August 2011	c	c	c	117	166*
September 2011	121	c	c	c	N/A
October 2011	c	154*	110	116	N/A
November 2011	c	113	c	c	c
April 2012	c	187*	180*	222*	231*

SG = Single Grab
 mg/L = milligrams per liter
 c = compliant
 N/A = not applicable

*Effluent sample results deviated from the permitted limitation by more than 40%.

Compliance History Report

Customer/Respondent/Owner-Operator: CN600245427 City of Hereford Classification: AVERAGE Rating: 2.27
Regulated Entity: RN101612570 City Of Hereford Wastewater Treatment Plant Classification: AVERAGE Site Rating: 6.00
ID Number(s): WASTEWATER PERMIT WQ0010186002
Location: Approximately 2 miles northeast of the intersection of United States Highway 60 and Farm-to-Market Road 2943 and 0.5 mile east of the intersection of United States Highway 60 and County Road 8 in Hereford, Deaf Smith County, Texas
TCEQ Region: REGION 01 - AMARILLO
Date Compliance History Prepared: June 19, 2012
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: June 18, 2007 to June 18, 2012
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Jill Russell Phone: 512-239 - 4564

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site:

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 06/14/2012 (1009686)
- 2 07/19/2007 (567492)
- 3 05/14/2008 (669877)
- 4 04/29/2011 (901380)

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

Date: 01/23/2008 (614734) CN600245427
Self Report? NO Classification: Moderate
Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)
2D TWC Chapter 26, SubChapter A 26.121(a)(1)
2D TWC Chapter 26, SubChapter A 26.121(a)(3)
2D TWC Chapter 26, SubChapter A 26.121(b)
2D TWC Chapter 26, SubChapter A 26.121(c)
2D TWC Chapter 26, SubChapter A 26.121(d)
2D TWC Chapter 26, SubChapter A 26.121(e)
30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)
Permit Conditions, Compliance PERMIT
TWC Chapter 26 26.121
TWC Chapter 26 26.121(a)(2)
Description: Failure by the facility to prevent 2 unauthorized discharges.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)
Monitoring Requirements - Notification PERMIT
Description: Failure by the facility to notify the TCEQ of an unauthorized discharge which
occurred on December 28, 2007.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Effluent Limitations PERMIT
Description: Failure by the facility to maintain the weekly BOD5 single grab within permit limits.
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Noncompliance Notification PERMIT
Description: Failure by the facility to report a BOD5 exceedence of over 40%.

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 HEREFORD
RN101612570**

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

**AGREED ORDER
DOCKET NO. 2012-1275-MWD-E**

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Hereford ("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 together stipulate that:

1. The Respondent owns and operates a wastewater treatment plant approximately two miles northeast of the intersection of United States Highway 60 and Farm-to-Market Road 2943 and 0.5 mile east of the intersection of United States Highway 60 and County Road 8 in Hereford, Deaf Smith 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 Executive Director 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 June 19, 2012.
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 Ten Thousand Four Hundred Ninety-Nine Dollars (\$10,499) is assessed by the Commission in settlement of the violations alleged in

Section II ("Allegations"). Two Thousand Ninety-Nine Dollars (\$2,099) of the administrative penalty 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. Eight Thousand Four Hundred Dollars (\$8,400) shall be conditionally offset by 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 and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
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:

1. Failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and Permit No. WQ0010186002, Effluent Limitations and Monitoring Requirements No. A, as documented during an investigation conducted on May 21, 2012, and shown in the table below:

Effluent Violations Table					
Month/Year	Biochemical Oxygen Demand (5-Day) SG Limit = 100 mg/L				
	Week 1	Week 2	Week 3	Week 4	Week 5
May 2011	c	193*	190*	c	155*
June 2011	106	149*	150*	c	N/A
July 2011	103	c	c	c	N/A
August 2011	c	c	c	117	166*
September 2011	121	c	c	c	N/A
October 2011	c	154*	110	116	N/A
November 2011	c	113	c	c	c
April 2012	c	187*	180*	222*	231*

SG = Single Grab

mg/L = milligrams per liter

c = compliant

N/A = not applicable

*Effluent sample results deviated from the permitted limitation by more than 40%.

- Failed to report any effluent violation which deviates from the permitted limitation by more than 40% in writing to the Amarillo Regional Office and the Enforcement Division within five working days of becoming aware of the noncompliance events for the months of May, June, August and October 2011, and April 2012, in violation of 30 TEX. ADMIN. CODE § 305.125(1) and (9)(A) and Permit No. WQ0010186002, Monitoring and Reporting Requirements No. 7.c, as documented during an investigation conducted on May 21, 2012.

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 Hereford, Docket No. 2012-1275-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, Eight Thousand Four Hundred Dollars (\$8,400) of the assessed administrative penalty shall be offset with the condition that the Respondent implements the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. It is further ordered that the Respondent shall:

- a. Within 30 days after the effective date of this Agreed Order, submit the noncompliance notifications for the effluent violations which deviated from the permitted limitation by more than 40% for the months of May, June, August and October 2011 and April 2012 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
Amarillo Regional Office
Texas Commission on Environmental Quality
3918 Canyon Drive
Amarillo, Texas 79109-4933

- b. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that all reporting procedures are properly accomplished, including reports for effluent violations which deviate by more than 40% from the permitted limit; and

- c. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of Permit No. WQ0010186002 and Ordering Provision Nos. 3.a and 3.b, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported monthly effluent reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the 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
Amarillo Regional Office
Texas Commission on Environmental Quality
3918 Canyon Drive
Amarillo, Texas 79109-4933

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.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Penny Davis

For the Executive Director

2/19/13

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.

Rick L Hanna

Signature

12-5-12

Date

Rick L Hanna

Name (Printed or typed)

Authorized Representative of

City of Hereford

City Manager

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: 2012-1275-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	City of Hereford
Payable Penalty Amount:	Eight Thousand Four Hundred Dollars (\$8,400)
SEP Amount:	Eight Thousand Four Hundred Dollars (\$8,400)
Type of SEP:	Pre-approved
Third-Party Recipient:	Texas Association of Resource Conservation and Development Areas, Inc. (“RC&D”) - Abandoned Tire Clean-Up
Location of SEP:	Deaf Smith County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset a portion of 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 Resource Conservation and Development Areas, Inc.** to be used for the *Abandoned Tire Cleanups Program* as set forth in an agreement between the Third-Party Recipient and TCEQ. The Third-Party Recipient shall coordinate with local city and county government officials and private entities to clean up sites where tires have been disposed of illegally, or to conduct tire collection events where residents will be able to drop off tires for proper disposal or recycling. Eligible tire cleanup sites will be limited to areas where a responsible party cannot be identified or where there is no preexisting obligation to clean up the site by the owner or government and where reasonable efforts have been made to prevent the dumping. The SEP Offset Amount will be used for the direct cost of collection and disposal of tires and debris. 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. The SEP will be administered in accordance with federal, state, and local environmental laws and regulations.

Respondent certifies that there is no prior commitment to make this contribution 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 providing for the proper disposal of tires and by reducing health threats associated with illegally dumped tires. Illegal tire dumpsites can become breeding grounds for mosquitoes and rodents which carry disease. The potential for tire fires is also reduced by removing illegally dumped tires. Tire fires can result in the contamination of surface water, ground water, and soil.

c. Minimum Expenditure

Respondent shall contribute at least the SEP Offset Amount to the Third-Party Recipient named above 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 amount.

City of Hereford
Agreed Order - Attachment A

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

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

5. Publicity

Any public statements concerning this SEP made by or on behalf of 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.